

INTEGRATED MANAGEMENT PLAN

Jointly Developed by the
Twin Platte Natural Resources District and the
Nebraska Department of Natural Resources



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Table of Acronyms and Abbreviations

AF	acre-feet or acre-foot
COHYST	Cooperative Hydrology Study
CPNRD	Central Platte Natural Resources District
CREP	Conservation Reserve Enhancement Program
Department	Nebraska Department of Natural Resources
District	Twin Platte Natural Resources District
EQIP	Environmental Quality Incentives Program
ET	Evapotranspiration
ILCA	Interlocal Cooperative Agreement
IMP	Integrated Management Plan
INSIGHT	Integrated Network of Scientific Information and GeoHydrologic Tools
M&I	Municipal and industrial
<i>Neb. Rev. Stat.</i>	Nebraska Revised Statutes
NeDNR	Nebraska Department of Natural Resources
NET	Nebraska Environmental Trust
NNPD	Nebraska New Depletion Plan
NPNRD	North Platte Natural Resources District
NRCS	Natural Resources Conservation Service
NRD	Natural Resources District
PBC	Platte Basin Coalition
Post-1997	refers to water uses initiated or expanded on or after July 1, 1997
PRRIP	Platte River Recovery Implementation Program
SPNRD	South Platte Natural Resources District
TBNRD	Tri-Basin Natural Resources District
TPNRD	Twin Platte Natural Resources District
WRFCF	Water Resources Cash Fund
WWUMM	Western Water Use Management Model

1.0 EFFECTIVE DATE

This second increment Integrated Management Plan (IMP) was adopted by the Twin Platte Natural Resources District on August 8, 2019 and by the Nebraska Department of Natural Resources on August 9, 2019. The IMP became effective on September 11, 2019.

2.0 AUTHORITY

This IMP was prepared by the Board of Directors of the Twin Platte Natural Resources District (TPNRD or District) and the Nebraska Department of Natural Resources (NeDNR) in consultation and collaboration with the TPNRD Stakeholders Group in accordance with *Neb. Rev. Stat.* §§ 46-715 through 46-720.

3.0 BACKGROUND

In 1993, the NeDNR (then the Department of Water Resources) imposed a moratorium on the issuance of new surface water appropriations in the Upper Platte River Basin upstream of Columbus, Nebraska. An additional automatic stay on the issuance of new surface water appropriations and on the use of existing appropriations to increase irrigated acres took effect in accordance with *Neb. Rev. Stat.* § 46-714 on September 30, 2004.

Prior to the enactment of LB 962 in 2004, the TPNRD had realized the need to regulate the use of groundwater. In December of 2003, the TPNRD requested the NeDNR to conduct studies and to hold a hearing on the preparation of a joint action plan for the integrated management of hydrologically connected groundwater and surface water within the District. On February 12, 2004, the TPNRD adopted Rules and Regulations for the “Temporary Suspension of Drilling New Wells” within a specifically defined portion of the District. That “Temporary Suspension,” which took effect on July 1, 2004, applied to those lands within the then defined stream depletion factor line representing a cumulative depletion to stream baseflow of 28 percent of a hypothetical pumping volume in a 40-year period (the “28/40 area”).

On July 16, 2004, when LB 962 took effect, and pursuant to *Neb. Rev. Stat.* § 46-720, the NeDNR issued a notice of preliminary determination that the TPNRD was fully appropriated. That determination continued the stay on the drilling of new groundwater wells in that part of the TPNRD previously subject to the “Temporary Suspension,” and added a stay on new irrigated acres. On September 15, 2004, the director of the NeDNR designated the Upper Platte River Basin above the Kearney Canal diversion as “overappropriated,” and identified the area in which the surface water and groundwater are considered to be “hydrologically connected” for purposes of the overappropriated designation. That area coincided with the 28/40 area. As a result of

that designation, additional land area within the District became subject to stays on new wells and stays on increases in irrigated acres.

On September 30, 2004, the director of the NeDNR designated the entire District as “fully appropriated.” As required by *Neb. Rev. Stat. § 46-720 (3)(b)*, stays on new wells and stays on increases in irrigated acres were limited to that area within the District that was specifically designated as overappropriated.

In January 2006, the board of the TPNRD approved a Ground Water Management Area for the entire District, which approval became effective on February 24, 2006. The Ground Water Management Area imposed a stay on the issuance of high capacity water well construction permits for the entire District. On May 17, 2007, the board of the TPNRD adopted a district-wide stay on the use of an existing water well to increase the number of acres historically irrigated, which stay became effective on June 18, 2007.

On March 29, 2005, the TPNRD formed a TPNRD Stakeholders Group, which met monthly to assist in developing the first increment IMP.

The first increment IMP was adopted by the TPNRD on August 13, 2009, and by the NeDNR on August 13, 2009. The first increment IMP became effective on September 15, 2009.

The first increment IMP was revised to allow for the addition of language that would allow an occupation tax to be assessed on all irrigated lands in the District. That revised first increment IMP was adopted on February 14, 2013 and became effective on March 14, 2013.

With the end of the first increment nearing, the TPNRD formed a stakeholders group to assist in the development of the second increment IMP. This stakeholders group was created using the same categories as the first increment IMP stakeholders and included a few of the stakeholders who participated in the first increment IMP. This group met five times from June 2018 through February 2019 to assist in the development of the TPNRD second increment IMP. At the final meeting, the stakeholder group reached consensus on the draft of the IMP.

4.0 MAP AND MANAGEMENT AREA BOUNDARIES

The area subject to this IMP is the entire geographic area of the District, including the area within the boundaries of the District determined to be fully appropriated (Figure 1) and the area designated as overappropriated (Figure 2). The stratigraphic boundaries subject to this IMP include all sediments from ground level downward through all aquifer units. Figure 3 shows the overappropriated surface water basin within the District. The goals, objectives, and action items described in this plan pertain to the entire District.

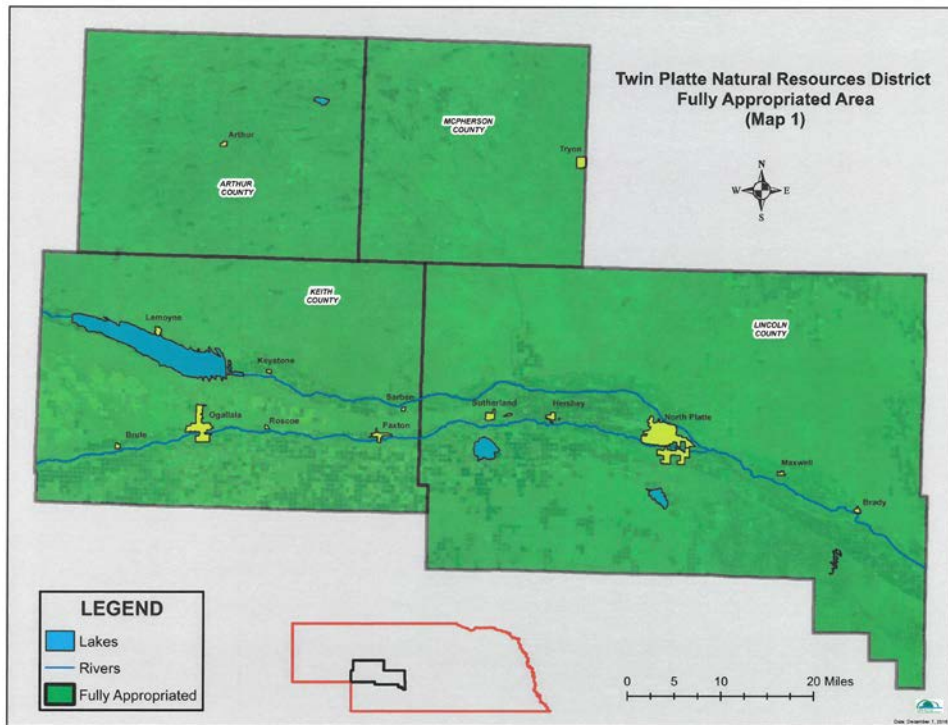


Figure 1. TPNRD fully appropriated area.

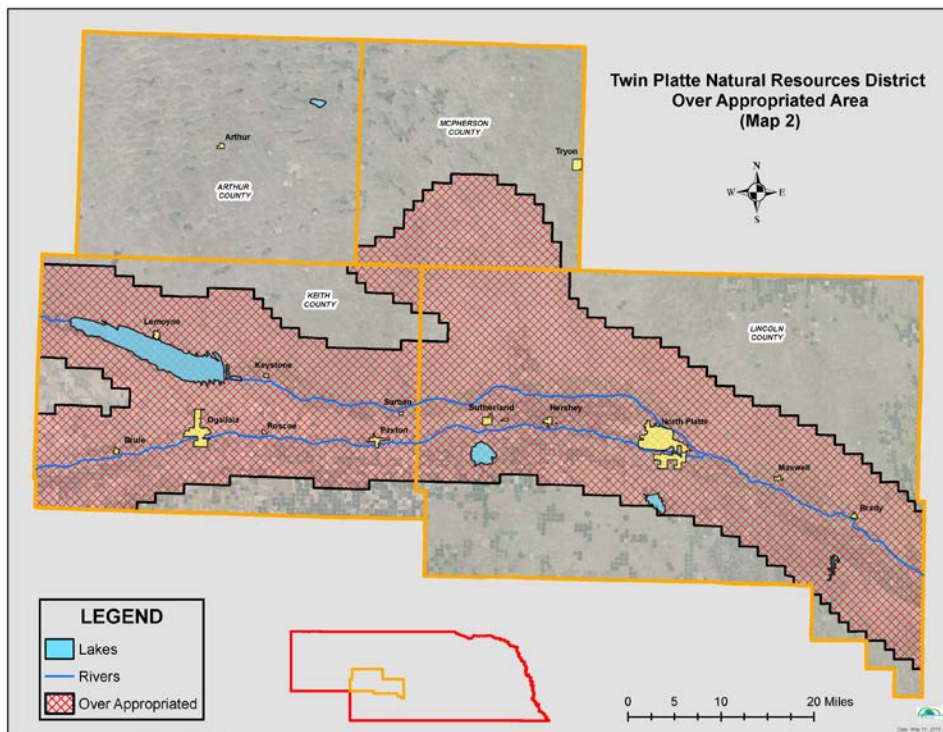


Figure 2. TPNRD overappropriated area.

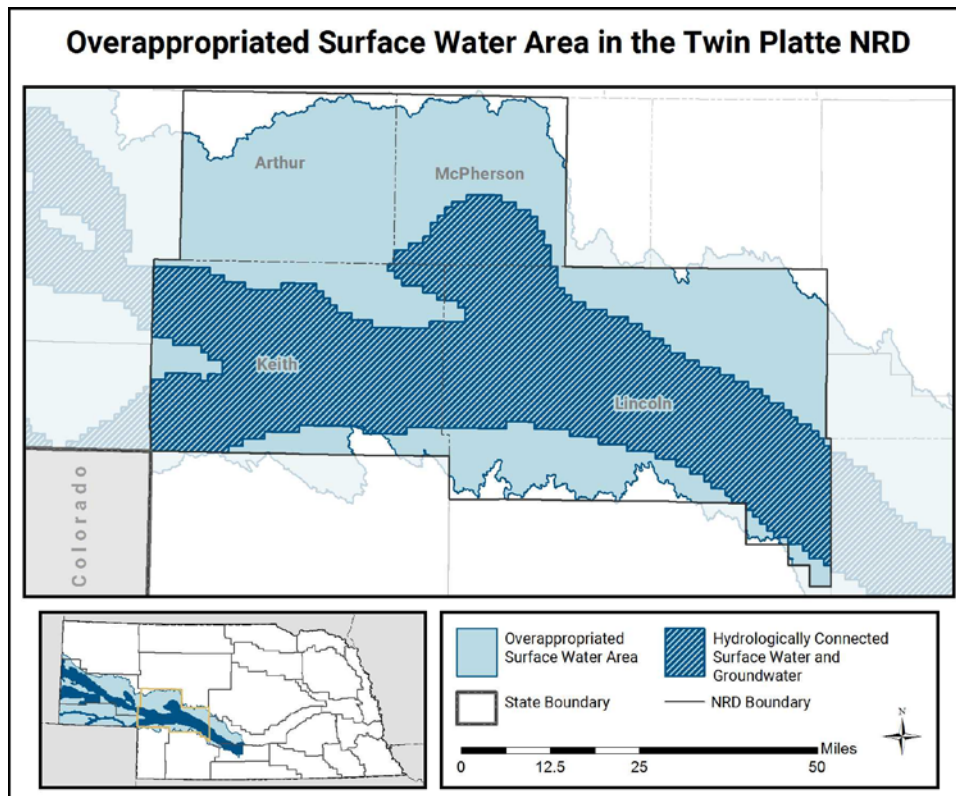


Figure 3. Upper Platte overappropriated surface water basin in TPNRD.

5.0 VISION

The overall vision of this IMP is to jointly manage the water resources within the District to balance water uses and water supplies, while optimizing economic, social, and environmental benefits for the near and long term. To do this, TPNRD and the NeDNR will protect existing users, local economy, environmental health, and recreational uses, to the extent possible. TPNRD and the NeDNR will manage the total water supply to achieve sustainable supplies and potential growth, will distribute streamflow depletion mitigation responsibilities appropriately, will provide educational programs related to this IMP, will allow for water banking and transfers, and will explore new sources of water in the future.

6.0 FUNDING

The NeDNR and TPNRD will use available funds and actively pursue new funding opportunities to cost effectively offset depletions as well as to develop, maintain, and update data and analytical tools needed to implement this plan. Funding for the regulatory and non-regulatory activities described in this plan will derive from several funding sources.

The NeDNR receives funds appropriated by the Nebraska Legislature for water resources management and administration. The TPNRD has revenue sources including the occupation tax provided in *Neb. Rev. Stat. § 2-3226.05*, funds granted to the TPNRD by the State or Federal government, or the levy authority authorized by *Neb. Rev. Stat. § 2-3225*. The NeDNR and TPNRD intend to utilize qualified projects described in *Neb. Rev. Stat. § 2-3226.04* to provide river-flow enhancement to achieve the goals and objectives of the TPNRD the requirements of the *Ground Water Management and Protection Act* which would be funded using one or more of the revenue sources listed above. These qualified projects may also assist the State to achieve the goals and objectives of the State under the Platte River Recovery Implementation Program (PRRIP).

In addition to NeDNR and TPNRD contributions, both entities may also seek out and utilize grants from various federal, state, local and private partners. For example, the Nebraska Environmental Trust (NET) has been a supporter of water management activities in the Upper Platte River Basin.

Funding priorities identified in the action items include:

- Reductions in consumptive use
- Enhancement of water supplies
- Maintenance of existing projects and implementation of proposed projects to meet goals of this plan
- Data acquisition and maintenance, and model improvements for plan implementation

The ability of the NeDNR and TPNRD to implement the goals, objectives, and action items for this IMP, including their ability to meet the implementation timeline and intermediate deadlines set forth herein, may be limited by the availability of resources, including (but not limited to) funding or staff resources.

If limited resources prohibit completion or initiation of a specific management action, or if they delay the ability of the NeDNR or TPNRD to complete a task by an established deadline, such limitations and delays will be discussed by the NeDNR and the Upper Platte River Basin NRDs. If such a delay results in the need for revisions to this plan, the necessary revisions will be made following the procedures set forth in Chapter 10 of this IMP.

7.0 SCIENCE AND METHODS

The NeDNR and the Central Platte NRD, North Platte NRD, South Platte NRD, Tri-Basin NRD and Twin Platte NRD (Upper Platte River Basin NRDs) will use the best readily available science, data, and methods when implementing and reviewing the Upper Platte River Basin second increment IMPs. This maintains consistency with state statute

and the first increment processes and methodologies. Consistency in the science, data, and methods used to evaluate water management actions across the basin is paramount to provide a consistent basis for comparison of the effectiveness of various water management actions, regardless of location. Statutes and prudent scientific practices call for clear and transparent procedures to track depletions and accretions. The NeDNR and Upper Platte River Basin NRDs will jointly develop and agree to all of the data, science, and methods used for the implementation, review, and evaluation of this IMP. The methodologies may be revised upon review of any new information, data, and science by the NeDNR and Upper Platte River Basin NRDs. The action items in Chapter 10 reference actions outlined within this Chapter that are instrumental to the implementation and review of the IMP. This Chapter briefly overviews the data, science, and methods used in the first increment and describe how this will continue into the current increment.

7.1 Best Available Science, Methods, Data, and Tools Used in the First Increment

The first increment and associated implementation of the NNDP used the Cooperative Hydrology Study (COHYST)¹ model as the best available tool to determine both groundwater depletions and set mitigation targets for each NRD. The analysis used to determine the targets for the first increment is described in the 2008 COHYST report². This analysis set the basis for the procedures for the Upper Platte River Basin NRDs and the NeDNR to perform consistent, ongoing analysis throughout the first increment. Consistency in evaluation is crucial in order to compare the results from the analysis used to determine targets with the results of the analysis to determine how particular management actions meet those targets.

The Upper Platte River Basin NRDs and the NeDNR developed an annual protocol to evaluate IMP progress³ toward the targets using analytical methods coupled with COHYST model data to assess annual changes in permit activity regarding changes in consumptive use and streamflow depletions. The annual protocol methods are consistent with the 2008 IMP targets to provide a valid comparison. The annual process was used each year and results of those analyses can be found on the NeDNR website⁴.

Evaluation of the initial COHYST model led to two major areas of scientific understanding. First, the massive expanse of the COHYST model area would be best

¹ More information on the COHYST model is available at <https://cohyst.nebraska.gov/>

² Luckey, R. R. (2008). *Estimated Stream Baseflow Depletion by Natural Resources District in the Nebraska Platte Basin due to Gained and Lost Groundwater Irrigated Land after July 1, 1997*. [Referred to as the 2008 COHYST report]. Aurora, CO: High Plains Hydrology, LLC. Retrieved from <https://dnr.nebraska.gov/water-planning/upper-platte-river-publications>

³ The protocol document, *Basin-wide Technical Committee Guidance Document – Procedures for Annual Accounting Review and Robust Review to Assist Integrated Management Planning and Facilitate Reporting to the Platte River Recovery Implementation Program*, can be found at <https://dnr.nebraska.gov/water-planning/other-upper-platte-river-documents>

⁴ Annual reports for the Upper Platte River Basin can be found at <https://dnr.nebraska.gov/water-planning/upper-platte-basin-wide-meetings-and-annual-reports>

modelled as two separate areas, the Western Water Use Management (WWUM) model area and the COHYST 2010 area, due to distinct and significant differences in geology, climate, land use, and water management that require a difference in the approach to modelling in the two areas. Second, splitting the COHYST model area required a reconstruction and recalibration of the groundwater models. This fundamental reorganization and rebuilding of the models means that neither model is currently consistent with the original 2008 COHYST report modeling analysis and results. Therefore, these models are not an appropriate tool to use as a direct comparison with the targets as described within the first increment IMP. Modifications to the original 2008 COHYST report analysis are necessary to redefine the targets for a true comparison.

7.1.1 COHYST 2010

The COHYST 2010 Model includes a portion of the Upper Platte River Basin, extending westward from Chapman to the upstream end of Lake McConaughy. This model is used for the Central Platte, Twin Platte, and Tri-Basin NRDs. The goal of COHYST 2010 is to support water management to maintain the region's extensive irrigation economy and protect river habitats used by endangered species. This goal is accomplished through reasonable and replicable model analysis to determine depletions and accretions that result from various water management actions.

The revised models improve the overall understanding of basin hydrology during implementation of the first increment plan. The first increment Robust Review used this updated understanding and science for all aspects of the analysis. Application of these tools and understanding resulted in refined estimates of post-1997 depletions that are typically greater than the original estimates included in the first increment plan. The 2019 Robust Review also provided estimates of the first increment offsets achieved by each of the Upper Platte River Basin NRDs. A description of the Robust Review can be found in Section 8.3 of this IMP.

7.2 Best Available Science, Methods, Data, and Tools to Be Used in Ongoing Increments

There are several basin-wide tenets regarding best available science, data, and methods that the Upper Platte River Basin NRDs and the NeDNR will follow while implementing their respective IMPs. The NeDNR and the Upper Platte River Basin NRDs will:

1. Maintain, improve, or acquire data and modeling tools, such as the COHYST 2010 model, WWUM model, land-use, climate data, and other programs or projects needed to implement and assess the progress of this IMP.
2. Use the models or data and tools derived from the COHYST 2010 model and/or the WWUM model to analyze potential management actions, conduct an annual

review of progress of the IMP, perform the next Robust Reviews, and carry out any relevant studies identified in this IMP or the Basin-Wide Plan.

3. Use conceptually consistent methods uniformly across the basin for IMP and Basin-Wide Plan compliance-based analysis, such that stream depletion estimates or calculations performed in one area of the basin are comparable to stream depletion estimates or calculations in another area of the basin. The concept 'uniformly across the basin' in this IMP means using consistency in analysis, and is not intended to dictate that the same methods be used throughout the basin. Rather, the intention is to indicate methodologies must be scientifically based and proven as conceptually consistent equivalents through either the scientific literature or independent evaluation of the NeDNR and the Upper Platte River Basin NRDs.
4. Use methods consistent with the analysis and tools used to develop the IMP targets when evaluating progress toward achieving current IMP targets. If necessary, new tools will be used to re-evaluate targets as well as progress toward those targets; in either case both the targets and the values estimating progress will be developed in a conceptually consistent manner so that they can be compared.
5. Maintain and expand model applications through collaboration with other model users.
6. Agree to substantial changes to the model before using those changes to evaluate the IMP and management actions. Such changes may include hydrologic properties or refinements of model grids.
7. Periodically review the accretion and depletion estimates and the methodology used in the analysis that generates these estimates. Understanding of the basin hydrology will continue to evolve as new supporting data and information are gathered and evaluated. Due to the improved data, information and tools, it is anticipated that, through agreement by the NeDNR and the Upper Platte River Basin NRDs, the values for depletions or accretions from the Robust Review may change.
8. Share advances or updates to data, models, analysis tools, or hydrological understanding with the public. Methods, tools, and data used will be made available to the stakeholders and the public, as described in the Basin-Wide Plan. The process for incorporating new information and results into this IMP and/or supporting appendices will include a public hearing, as discussed in Section 10.9 of this IMP.

7.3 Information Considered in Developing this IMP

Information used in the preparation of this IMP and to be used in the subsequent implementation of this IMP can be found in the list below. These materials can be obtained by contacting the TPNRD or the NeDNR.

- The Order Declaring Formal Moratoriums in the Matter of the Platte River Basin above the Mouth of the Loup River, the North Platte River Basin, and the South Platte River Basin, et al.; dated July 14, 2004 (Appendix D)
- The Order Designating Overappropriated River Basins, Subbasins, or Reaches, and Describing Hydrologically Connected Geographic Area in the Matter of the Platte River Basin upstream of the Kearney Canal Diversion, the North Platte River Basin, and the South Platte River Basin; dated September 15, 2004 (Appendix E)
- The Order of Final Determination of River Basins, Subbasins, or Reaches as Fully Appropriated, and Describing Hydrologically Connected Geographic Area in the Matter of the Portion of the Platte River Basin Upstream of the Loup River Confluence, the North Platte River Basin, and the South Platte River Basin within the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District; dated September 30, 2004 (Appendix F)
- The TPNRD *Ground Water Management Plan*
- The TPNRD *Districtwide Ground Water Management Area and Integrated Management Sub-Area Rules and Regulations*
- The *Integrated Management Plan Jointly Developed by the Twin Platte Natural Resources District and the Nebraska Department of Natural Resources*; effective September 15, 2009, revised March 14, 2013 (first increment IMP)
- The *Basin-Wide Plan for Joint Integrated Water Resources Management of Overappropriated Portions of the Platte River Basin, Nebraska*; effective September 11, 2009 (first increment Basin-Wide Plan)
- The proposed *Second Increment Basin-Wide Plan for Joint Integrated Water Resources Management of Overappropriated Portions of the Platte River Basin, Nebraska*
- COHYST and COHYST 2010 Models
- The 2019 *Upper Platte Basin Robust Review*
- The Upper Platte River Basin *Evaluation of the Difference in Streamflow Impacts Prior to and After 1997* (Total Depletions Analysis)
- The *Upper Platte River Basin INSIGHT Analysis*

- The Nebraska New Depletion Plan of the Platte River Recovery Implementation Program
- Information developed by and data collected for the Platte River Recovery Implementation Program
- Applicable Nebraska Revised Statutes
- *Department of Natural Resources Rules for Groundwater, Title 456 Neb. Admin. Code*
- *Department of Natural Resources Rules for Surface Water, Title 457 Neb. Admin. Code*
- The items listed in *Department of Natural Resources Rules for Process and Procedures, Title 454 Neb. Admin. Code*
- Additional data on file with the TPNRD and the NeDNR

8.0 FIRST INCREMENT ACCOMPLISHMENTS

8.1 Studies Conducted and Information Obtained in the First Increment

The Upper Platte River Basin NRDs and the NeDNR conducted several studies in the first increment, which were specifically identified by the IMPs. Large amounts of information and data were collected and used in these studies and other analyses. The purpose was to help evaluate the potential effectiveness of various strategies in achieving the goals and objectives of that IMP and to help gage progress during the first increment.

8.1.1 Assessing Available Water

8.1.1.1 Surface Water

A study of unappropriated surface water, its availability in time and location, was conducted during the first increment; see reports by HDR and The Flatwater Group, Inc. (2010⁵, 2013⁶). A list of existing surface water appropriations within the basin was compiled as part of the study of unappropriated surface water (HDR and The Flatwater Group, Inc. 2010). It was determined that there are times when unappropriated surface water is available in the basin for relocation or retiming projects. Specifically, the NeDNR determined that between 1954 and 2008 there were excess flows available in some years. Most excess flow events occurred in May and June, and some events were in excess of 30,000 acre-feet

⁵ HDR and The Flatwater Group, Inc. (2010). *Evaluation of Historic Platte River Streamflow in Excess of State Protected Flows and Target Flows*. Retrieved from <https://dnr.nebraska.gov/water-planning/upper-platte-river-publications>

⁶ HDR and The Flatwater Group, Inc. (2013). *Evaluation of Historic Platte River Streamflow in Excess of State Protected Flows and Target Flows, Technical Memorandum*. Retrieved from <https://dnr.nebraska.gov/water-planning/upper-platte-river-publications>

(AF). A planning tool was developed to estimate amount, duration, and frequency of excess flow by reach.

8.1.1.2 Groundwater

To assist in assessing available groundwater, the TPNRD certified all groundwater irrigated acres and other uses of groundwater. This database continues to be maintained in a GIS database of the certified acres, which tracks transfers, retirements and other changes to certified acres.

8.1.2 Conservation Measures Study

8.1.2.1 Phase I

The Flatwater Group, Inc. completed Phase I of a conservation study in 2013 and provided the results in a Final Technical Memorandum⁷. The purpose of the Phase I study was to assess which conservation measures⁸ the Upper Platte River Basin NRDs should consider implementing and also to assess potential methods for developing basin-wide estimates of impacts to streamflow of the conservation measures in the fully appropriated and overappropriated areas of the basin.

Phase I provided a matrix which assessed the assumed magnitude of impact to streamflow of varying intensity for each conservation measure, as well as the required resources and cost of each method. The matrix also provided information on the effect to overland runoff, recharge, and net effect on evapotranspiration (ET) of each conservation measure of varying intensity. Conservation measures assessed included structural (e.g., terraces, dams, canals, etc.) and non-structural (e.g., tillage, irrigation management and efficiency, crop rotation, soil monitoring, buffers, etc.) measures.

8.1.2.2 Phase II

From the Phase I study, two conservation measures, 1) changes in tillage practices, and 2) improvements in irrigation efficiency, were identified and were subsequently assessed in the Phase II study for their impacts on surface water and groundwater⁹. To analyze the effects that the two conservation measures had on both surface water and groundwater, each conservation measure was

⁷ The Flatwater Group, Inc. (2013). *Final Technical Memorandum of Conservation Study*. Retrieved from <https://dnr.nebraska.gov/water-planning/upper-platte-river-publications>

⁸ The Final Technical Memorandum defines conservation measures as “practices designed to control or prevent soil erosion, enhance the beneficial use of precipitation and irrigation water, or reduce non-beneficial water consumption.”

⁹ Adaptive Resources, Inc., Nebraska Department of Natural Resources, and Wilson Water Group (2017). *POAC Area Conservation Measures Study – Irrigation Efficiency and Tillage Strategy*. Retrieved from <https://dnr.nebraska.gov/water-planning/upper-platte-river-publications>

modeled and results were compared to a baseline model scenario. Two scenarios were developed for each conservation measure, a low and high bookend of their potential effects, using historical tillage practices and low irrigation efficiencies, and using no-tillage practices and high irrigation efficiencies, respectively.

A. Changes in Tillage Practices

In the surface water model scenarios, the no-tillage scenario resulted in a reduced net irrigation requirement (NIR), corresponding to reduced river diversions, upstream storage releases, and co-mingled pumping, but overall minimal impact on the streamflow at the Lewellen gage. In the groundwater model scenarios, no-tillage resulted in increased baseflow and increased recharge.

B. Changes in Irrigation Efficiency

In the surface water models, the high efficiency scenario reduced NIR by approximately 30 percent, significantly increased crop consumptive use (as expected in water short systems), and reduced return flow. The increased consumptive use is often met by more efficient use of river diversions, and a significant reduction in upstream releases and co-mingled pumping. The low efficiency scenario resulted in higher streamflow due to reduced crop consumptive use and increased return flows during the non-irrigation season. The conservation measures caused the greatest impact on streamflow during dry years.

The groundwater models found that the effects of each practice varied between Upper Platte River Basin NRDs. North Platte NRD saw an increase in baseflow as a result of low efficiency irrigation, likely due to additional recharge from surface water diversions/canals along the North Platte River. The other Upper Platte River Basin NRDs saw an increase in baseflow as a result of high efficiency irrigation, likely due to reduced groundwater withdrawals. High efficiency irrigation decreased recharge for all the Upper Platte River Basin NRDs.

Overall, relatively minor net surface water supply benefits result from increasing irrigation efficiency, primarily due to additional crop consumption and that in areas the reliant on surface water for delivery of irrigation supplies the increased efficiency of water delivery may have negative impacts on the water supply. High efficiency irrigation resulted in reduced groundwater pumping but also reduced groundwater recharge in all five Upper Platte River Basin NRDs. No-tillage practices resulted in reduced groundwater pumping and increased groundwater recharge in all five Upper Platte River Basin NRDs. As a result of these findings, additional ongoing efforts to evaluate the impacts of tillage practices are underway. It is

expected that these updated findings will be integrated into future technical evaluations.

8.1.3 Conjunctive Management Study

In 2011, HDR and The Flatwater Group, Inc. published the Conjunctive Management Study¹⁰. The objectives of this study were to identify general elements, potential approaches, and constraints necessary for planning and evaluation of conjunctive management projects. Findings were then used to evaluate several hypothetical projects involving the Western Canal to illustrate the application of these concepts. Although the Western Canal, a 20-mile canal that diverts from the South Platte River, is located in South Platte and Twin Platte NRDs, the concepts from this case study are applicable basin-wide.

Conjunctive management¹¹ involves managing surface water and groundwater together to maximize storage, timing, and use of the resource. For successful conjunctive management projects, surface water and groundwater supplies and uses need to be identified. Projects generally include three components, 1) diversion of surface water, 2) recharge facilities, and 3) use of the water. Project impacts (e.g., water yield, water quality, economics, the environment, etc.) and alternatives must be considered, as well as legal constraints. A monitoring plan should also be developed to assess project performance. All of these components were then used in a case study to evaluate several hypothetical projects on the Western Canal.

8.1.4 Inventory of Sandpits and Small Reservoirs

As part of Nebraska's commitment to PRRIP, the NeDNR has been charged with estimating the cumulative impacts of new or expanded, unregulated surface water activities. Therefore, in 2013, the NeDNR conducted an inventory and analysis of sandpits and reservoirs with capacity below 15 AF throughout Upper Platte River Basin¹². This analysis used multi-temporal aerial imagery from 2005 and 2010, and implemented remote sensing techniques to delineate and compare the number, size, and distribution of these water bodies. Baseline data generated from 2005 imagery were compared to 2010 imagery in order to identify changes in the overall surface areas of these unregulated water bodies within the basin. Once these new or expanded water bodies were identified, the Natural Resources Conservation Service (NRCS) ET calculator was used to estimate the resulting change in consumptive use due to ET.

¹⁰ HDR and The Flatwater Group, Inc. (2011). *Conceptual Design of a Conjunctive Management Project*. Retrieved from <https://dnr.nebraska.gov/water-planning/upper-platte-river-publications>

¹¹ The Conjunctive Management Study defines conjunctive management as “the coordinated and planned use and management of both surface water and groundwater resources to maximize the availability and reliability of water supplies in a region to meet various water needs.”

¹² Zoller, A., K. Ajaere, and A. Pedley. (2019). *Upper Platte River Basin Consumptive Use Change from New Reservoirs and New or Expanded Sandpit Lakes: 2005 to 2010*. Retrieved from <https://dnr.nebraska.gov/water-planning/upper-platte-river-publications>

The inventory component of the study was extremely labor intensive and required approximately 2,500 labor hours to identify, measure, and categorize over 13,000 remotely sensed features. After comparing data from both years, the study found 94 new or expanded sandpits and 9 new reservoirs. New and expanded sand pits represented a cumulative increase in open water surface area of 728 acres and new reservoirs were responsible for a cumulative increase of 19 acres for a total of 747 new acres of unregulated surface water throughout the basin from 2005 to 2010.

Once the change in open water acreage attributed to unregulated surface water was determined, the NRCS calculator was used to estimate the resulting change in consumptive use due to ET. The results of the NRCS analysis found a pronounced decrease in consumptive use due to ET during the growing season with a modest increase in consumptive use during the non-growing season. Additionally, the NRCS analysis identified a very slight increase in consumptive use due to new reservoirs, which was consistently distributed across all months. Ultimately, the NRCS analysis estimated that the increase in unregulated surface water acreage from 2005 to 2010 resulted in a net decrease in consumptive use of 678 AF per year throughout the basin. The results of this study were presented to the PRRIP's Water Advisory Committee on May 6, 2014.

8.2 Summary of Management Actions in the First Increment

The TPNRD and the NeDNR conducted several conjunctive management projects in cooperation with Irrigation Districts. Excess streamflows were diverted into irrigation canals, pits, and reservoirs for groundwater recharge to retime and augment baseflows.

The TPNRD worked with NRDs in the Republican Basin to develop the NCORPE streamflow augmentation project.

The TPNRD assisted groundwater users in signing up for incentive programs.

The NeDNR continued the formal moratorium on all new surface water appropriations for the Upper Platte River Basin including the TPNRD.

Additionally, the first increment IMP called for several administrative actions regarding groundwater. These actions were carried out by the TPNRD:

- The Moratorium on new uses of groundwater was maintained with variances offered when a new use could supply an offset.
- Rules on the transfer of groundwater have been implemented by the TPNRD to assist with retiming or relocation of groundwater uses to provide net accretions to the river at the necessary time and in the right location, the TPNRD rules and regulations encourage transfers that move certified irrigated acres away from near the river to a distance farther away from the river, which allows for the re-timing of depletions to the river.

8.3 Assessment of the First Increment (2019 Robust Review)

As required by statute, the NeDNR and the Upper Platte River Basin NRDs conducted a Robust Review¹³, finalized in 2019, of the progress being made toward achieving the goals, objectives, and targets of the first increment. The previous IMP outlined the process for the Robust Review in order to compare the results of that analysis with the 2008 COHYST report (Section 7.1). This Robust Review was an update of that study. The evaluation used data and information from the annual reports and updates developed in support of Basin-Wide Plan and NNDP implementation.

This evaluation provides summarized estimates of the streamflow impacts resulting from gained and lost irrigated land, allocations, transfers, expansion and contraction of municipal and industrial uses, managed groundwater recharge, stream augmentation, and permitted uses that occurred through 2013. The report is a synthesis of all of these efforts and provides summarized updates of new targets that will be used to guide second increment planning goals and objectives.

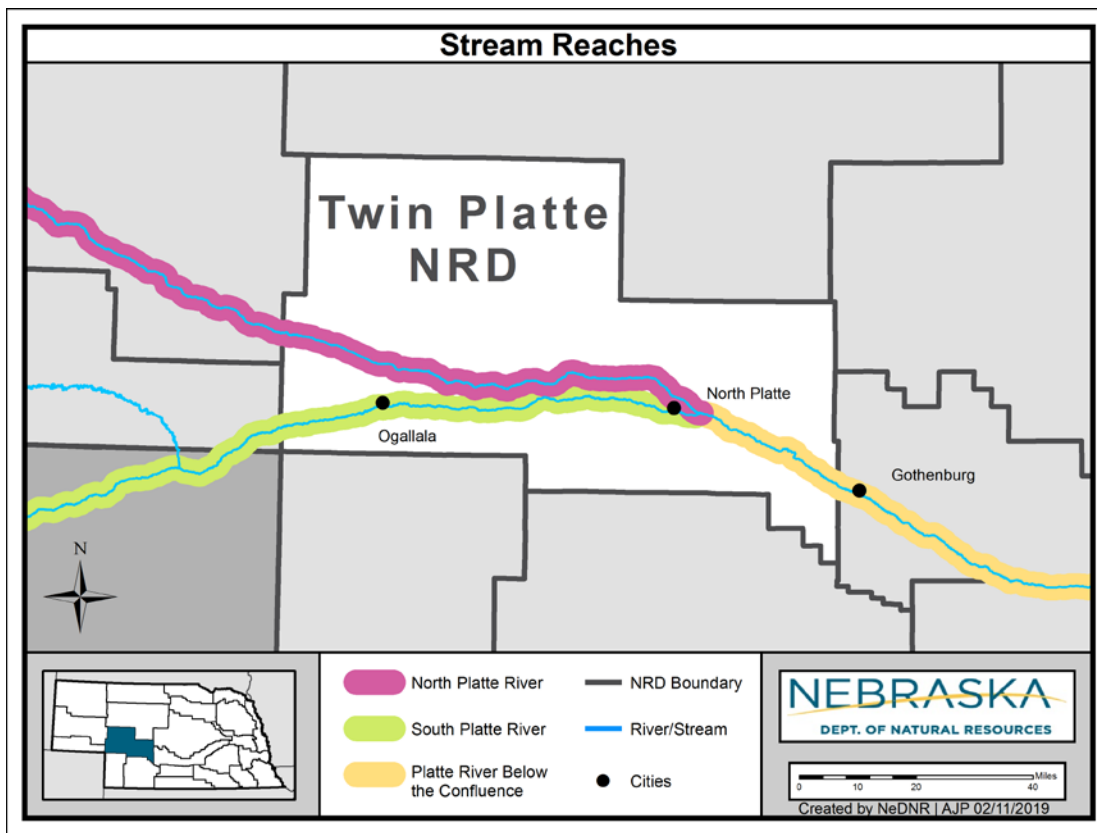


Figure 4. Stream reaches for Robust Review analysis.

¹³ Platte Overappropriated Area Committee. (2019). *Upper Platte Basin Robust Review*. Retrieved from <https://upjointplanning.nebraska.gov/>

The 2019 Upper Platte River Basin Robust Review report outlines the methods, limitations, and results of the most recent Robust Review and represents the best available science to support second increment planning. Figures 5-7 below illustrate the results for the TPNRD for the period of 2014-2063 from this most recent Robust Review conducted by the NeDNR. Positive values for streamflow impacts indicate accretions to and negative values indicate depletions. The charts display the modeled post-1997 impacts of groundwater-only irrigation, municipal and industrial development, groundwater irrigated acres retirements, and groundwater recharge activities within the District for each of the stream reaches impacted by the District, as shown in Figure 4. Again, the impacts of changes, activities, and actions taken through 2013 are reflected in the results, but any changes, activities, or actions occurring after 2013 were not analyzed in this 2019 Robust Review and are therefore not shown in the data. A linear trend line has been added to the modeled impacts from 2014 through 2063, and the inter-annual variability range of modeled impacts across the trend shown by the grey band.

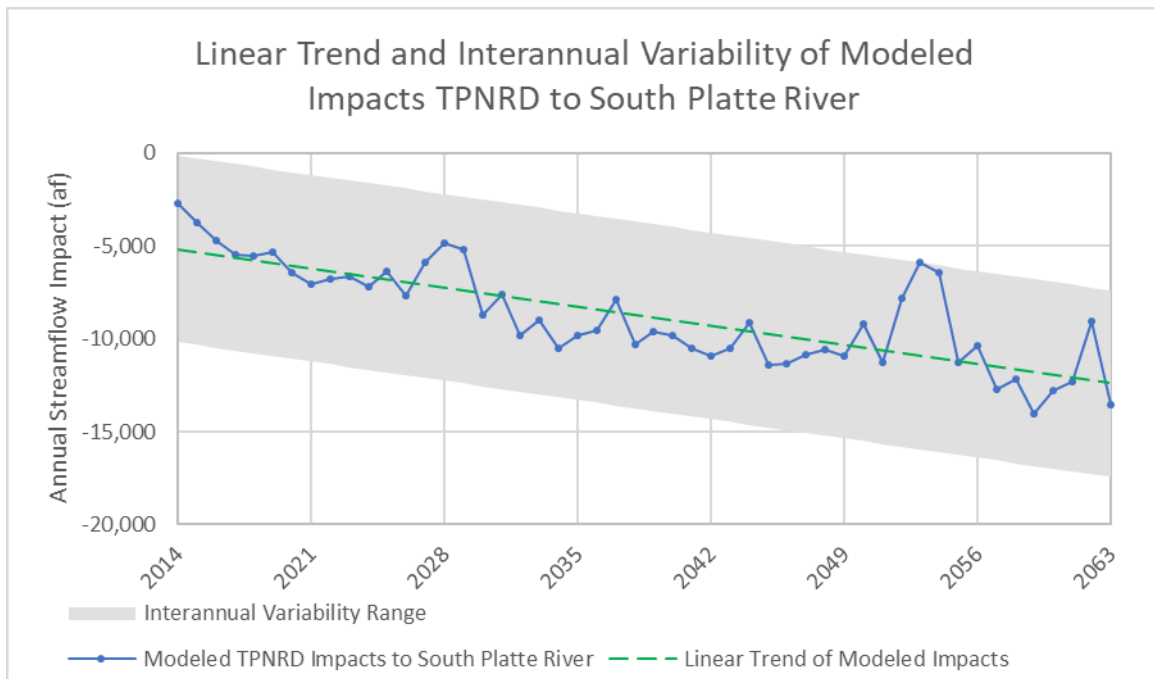


Figure 5. Modeled TPNRD post-1997 impacts to the South Platte River, the linear trend line of the modeled impacts from 2014-2063, and the inter-annual variability range of modeled impacts across the trend.

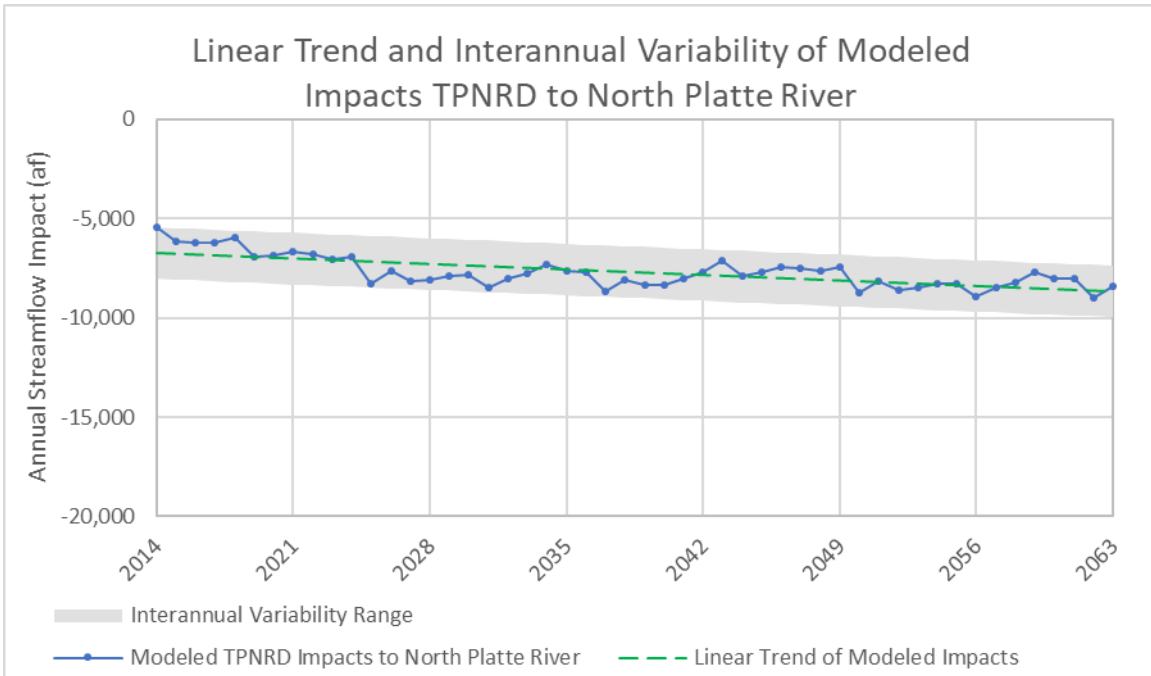


Figure 6. Modeled TPNRD post-1997 impacts to the North Platte River, the linear trend line of the modeled impacts from 2014-2063, and the inter-annual variability range of modeled impacts across the trend.

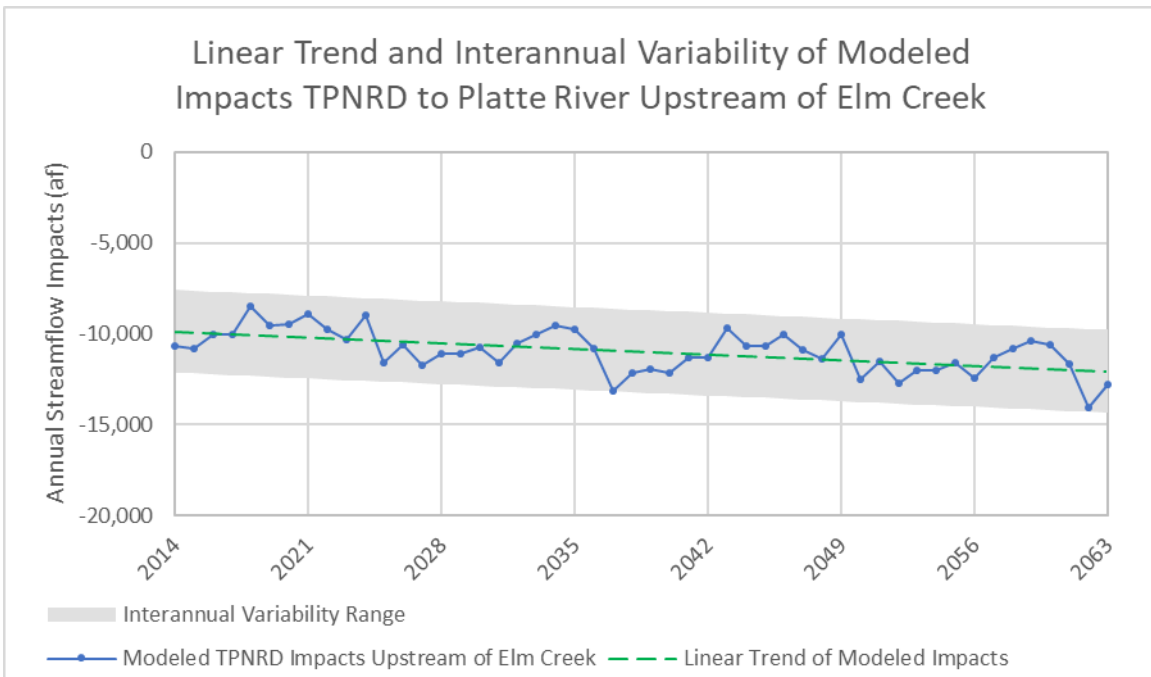


Figure 7. Modeled TPNRD post-1997 impacts to the Platte River upstream of Elm Creek, the linear trend line of the modeled impacts from 2014-2063, and the inter-annual variability range of modeled impacts across the trend.

Potential future offsets and management actions are impacted by the variability in climate, therefore the trend line is shown to smooth out the potential future effects of climate variability and the grey inter-annual variability band encapsulates a potential range of impacts.

It is recognized that while they were not analyzed during this 2019 Robust Review, several canal diversions for recharge occurred after 2013 in the first increment that would also provide accretions to the stream. Other projects, such as NCORPE and J2, were planned and pursued in the first increment, which counted as credit toward achieving the first increment IMP offsets even though they were not actually operated and no water was put into the stream as a result of those projects. The NCORPE project will be available to the TPNRD in the second increment as a source of offset water. The TPNRD and the NeDNR will also continue to pursue conjunctive management projects to provide accretions to the stream. Any operation of NCORPE in the second increment and additional canal recharge projects after 2013 will be considered when evaluating the progress toward second increment goals and objectives in Chapter 9 and when performing the next Robust Review.

8.4 Assessment of Fully Appropriated

There are several factors that play a role in assessing the difference between the current level of development and a fully appropriated condition in the Upper Platte River Basin. Identifying this difference is critical in tracking progress toward a fully appropriated condition. The *Nebraska Ground Water Management and Protection Act* requires that determination of the difference between current and fully appropriated levels of development account for: (1) cyclical supply, including drought; (2) the portion of the difference that is due to conservation measures; (3) the portion of the overall difference due to water uses initiated prior to July 1, 1997; and (4) the portion of the overall difference due to water uses initiated or expanded on or after July 1, 1997. A more complete description of all of the factors that are used to assess the difference between current levels of development fully appropriated conditions are outlined in Appendix 1 of the Total Depletions Report¹⁴. Several publications have been developed to support evaluation of these components (see conservation measures study, Robust Review, INSIGHT analysis) and are further described below.

8.4.1 Streamflow Impacts from Uses Initiated Prior to July 1, 1997 and after July 1, 1997 (Total Depletions)

This evaluation provides summarized estimates of the streamflow impacts resulting from development of groundwater-only irrigated lands from 1950 to 2013 within each Upper Platte River Basin NRD. An evaluation of the streamflow impacts resulting from gained and lost irrigated land, controls (allocations and transfers), municipal and industrial expansion and contraction, managed recharge, stream

¹⁴ Nebraska Department of Natural Resources. 2019. *Evaluation of the Difference in Streamflow Impacts Prior to and After 1997*. Retrieved from <https://upjointplanning.nebraska.gov/>

augmentation, and permitted uses initiated or expanded on or after July 1, 1997, within each Upper Platte River Basin NRD are provided in the Robust Review report.

In Figures 8, 9, and 10, the modeled streamflow impacts to the South Platte River, North Platte River, and the Platte River upstream of Elm Creek, respectively, from all groundwater-only irrigation and municipal and industrial development within TPNRD with offsetting management actions, including groundwater irrigated acres retirements and recharge projects on the South Platte River and Platte River upstream of Elm Creek, are shown in orange. Also shown are the modeled streamflow impacts from all groundwater-only irrigation and municipal and industrial development prior to 1997 in blue.

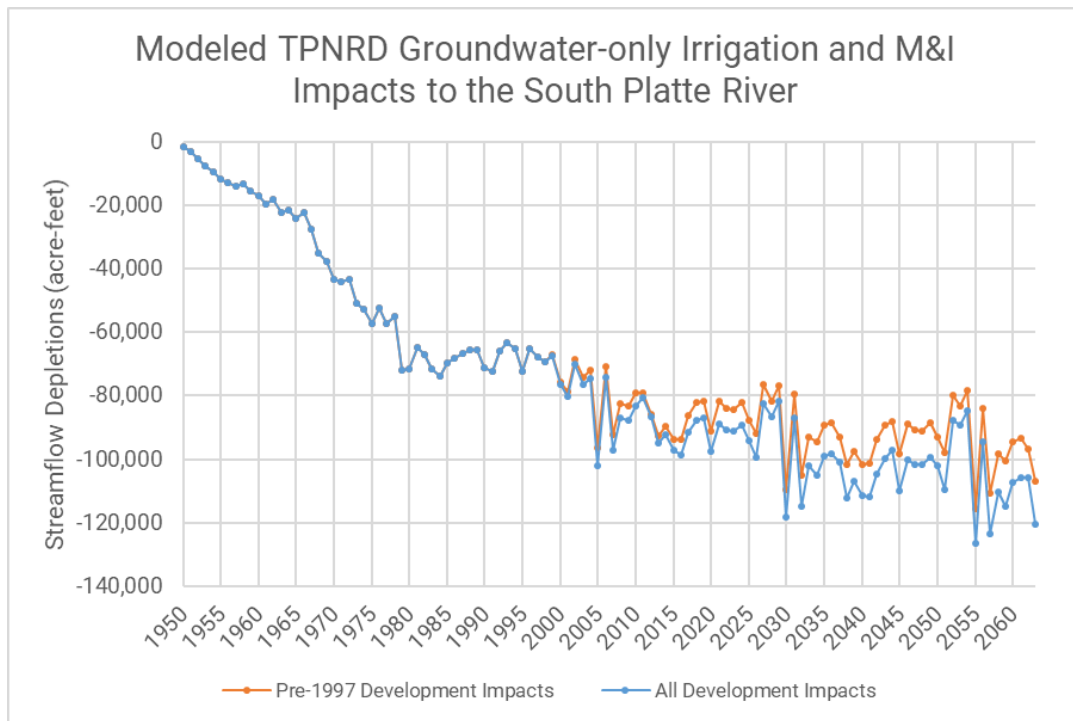


Figure 8. Modeled TPNRD streamflow impacts to the South Platte River from all groundwater-only irrigation and M&I development with offsetting management actions and the streamflow impacts from development pre-1997.

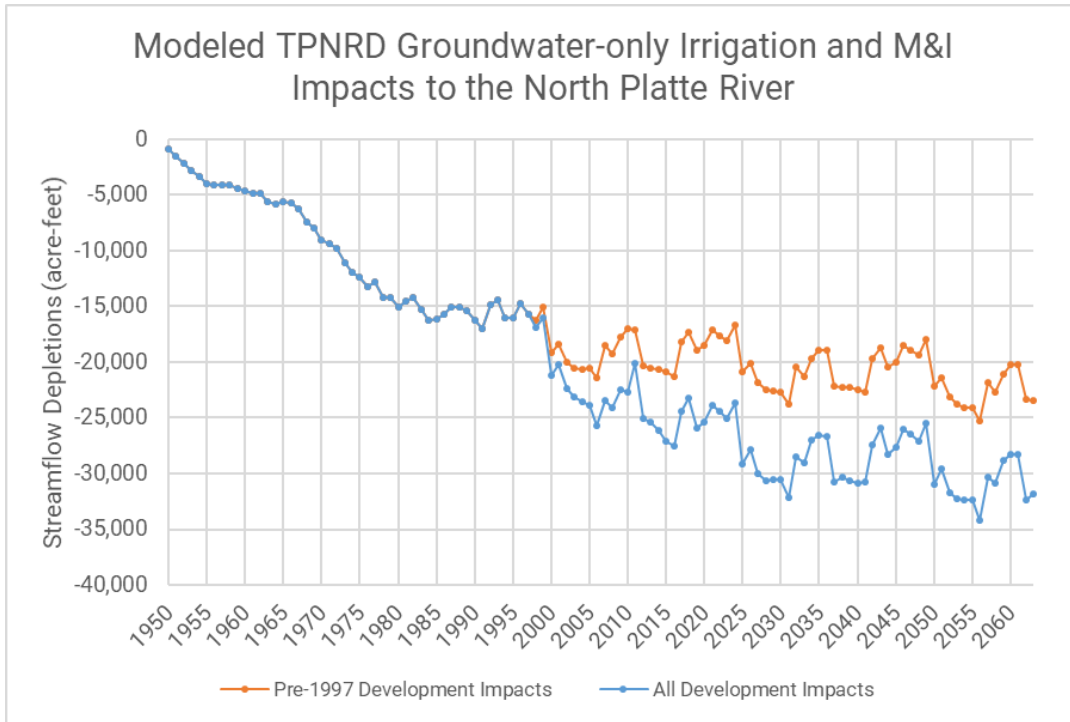


Figure 9. Modeled TPNRD streamflow impacts to the North Platte River from all groundwater-only irrigation and M&I development with offsetting management actions and the streamflow impacts from development pre-1997.

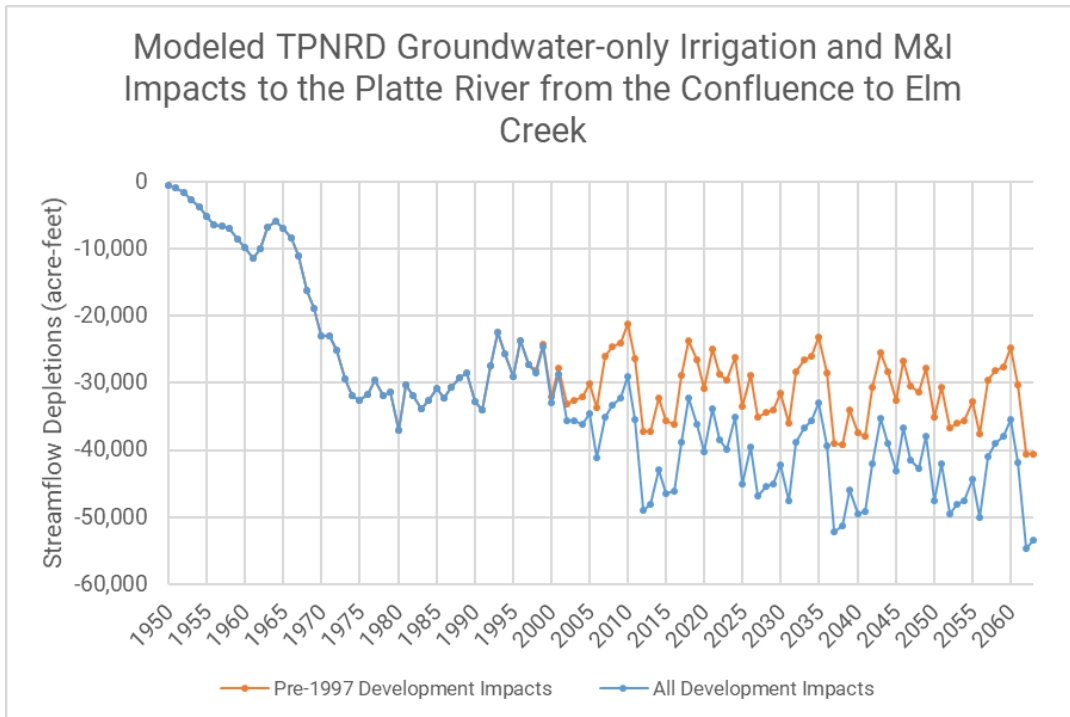


Figure 10. Modeled TPNRD streamflow impacts to the Platte River from the Confluence to Elm Creek from all groundwater-only irrigation and M&I development with offsetting management actions and the streamflow impacts from development pre-1997.

8.4.2 Conservation Measures

As previously noted in Section 8.1, significant effort has been focused on developing an approach to assessing the impacts of conservation measures. The first phase of this work focused on identifying conservation measures thought to be most impactful on water supplies and use. This phase resulted in the development of a matrix which assessed the assumed magnitude of impact to streamflow of varying intensity for each conservation measure, as well as the required resources and cost of methods that could be used to support further quantification. The matrix also provided information on the effect to overland runoff, recharge, and net effect on evapotranspiration (ET) of each conservation measure of varying intensity. Conservation measures assessed included structural (e.g., terraces, dams, canals, etc.) and non-structural (e.g., tillage, irrigation management and efficiency, crop rotation, soil monitoring, buffers, etc.) measures.

The second phase of this effort focused on further quantifying the impacts resulting from changes in tillage practices and irrigation efficiencies. The results of this work were presented to the basin-wide stakeholders with the general conclusions as follows:

- Relatively minor net water supply benefits result from increasing efficiency, primarily due to additional crop consumption and that in areas reliant on surface water for delivery of irrigation supplies the increased efficiency of water delivery may have negative impacts on the water supply.
- Increased implementation of minimum tillage practice can reduce on-farm evapotranspiration and increase recharge, but will likely result in decreased runoff contributions to streams. Overall increasing the practice on minimum tillage can have a net water supply benefit of approximately 1-3 inches per acre depending on the location and existing farming practices.

As a result of the second phase findings additional ongoing efforts to evaluate the impacts of tillage practices changes are underway. It is expected that these updated findings will be integrated into future technical evaluations.

8.4.3 Evaluation of Cyclical Supplies and Demands (INSIGHT)

The INSIGHT methodology is an approach to assessing the balance between water supplies and water demands within a basin. INSIGHT consolidates data from several sources, including NeDNR, the United States Geological Survey, the United States Bureau of Reclamation, and local NRDs. That hydrologic data is used to conduct an analysis of the following items at the basin- and subbasin-level:

- Streamflow water supplies available for use,
- The current amount of demand on these supplies,
- The long-term demand on these water supplies due to current uses,

- The balance between these water supplies and demands.

The overall concept was to examine basin water supplies and total water demands to estimate the water availability within the basin. The INSIGHT analysis¹⁵ used data from 1988-2012 and took into account basin water supply, total demands, and the effects of timing of uses, lag impacts, and water storage.

A balance in the basin occurs when water supply equals water demand. There are times when supply exceeds demand, and when demand exceeds supply. If demand exceeds supply, there may not be enough water supply to sustain demands over the long term.

Basin Water Supply is the amount of water available in the basin before any human use occurs. This is represented by adding streamflow, surface water consumptive use, and streamflow depletions caused by groundwater pumping. This supply fluctuates according to wet and dry years and also vary throughout the year.

Total demand includes surface water and groundwater demands for irrigation and municipal and industrial uses, net surface water loss (also called canal seepage) and non-consumptive demands such as instream flows or hydropower. These demands vary throughout the year.

Figures 11-13 below, show the basin water supply and total demands for the period of 1988-2012 for the entire Upper Platte River Basin as a whole. Each component of the supply and demand is shown on the charts. The final chart (Figure 13) shows the annual balance, which is the supply minus the demand. When all demands in the basin are considered, the demands outweigh the supplies in most years. This means that there are times when the supplies are not adequate to meet all the demands.

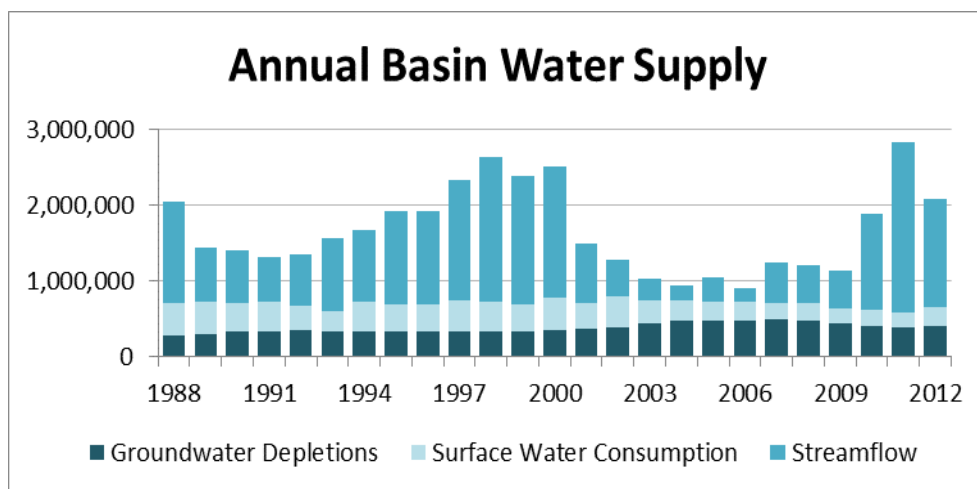


Figure 11. Upper Platte River Basin annual basin-wide water supply before any human use occurs.

¹⁵ HDR. (2019). Upper Platte INSIGHT Analysis. Retrieved from <https://upjointplanning.nebraska.gov/>

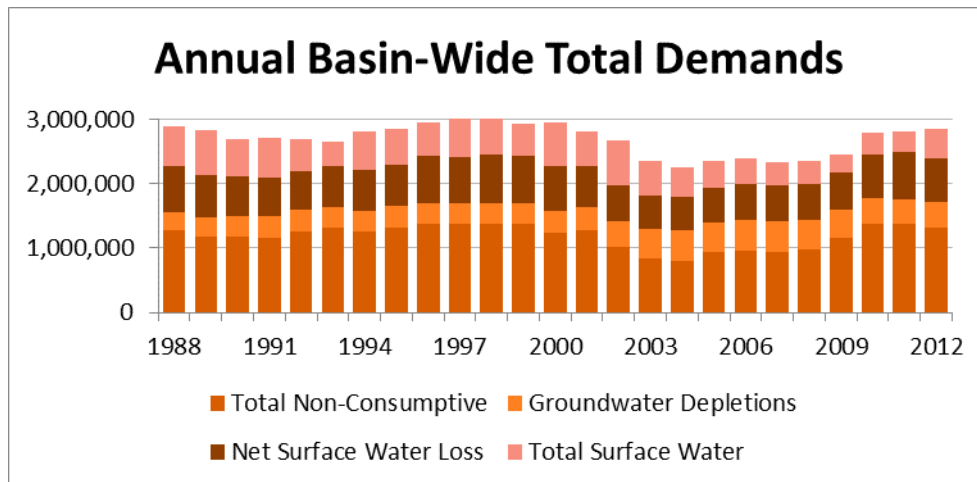


Figure 12. Upper Platte River Basin annual basin-wide total demands for surface water and groundwater.

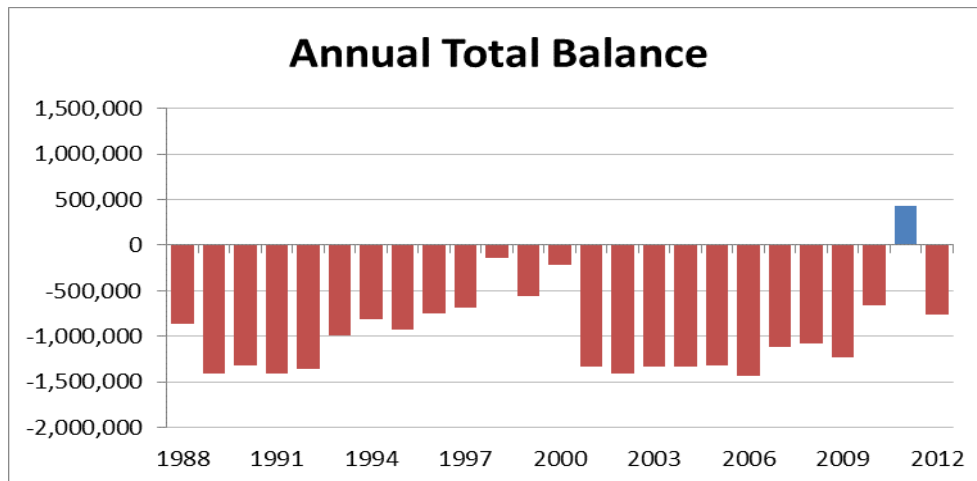


Figure 13. Upper Platte River Basin annual basin-wide total balance (supply minus demand).

8.5 Basin-Wide Coordination in the First Increment

The first increment IMP called for the development of a list of criteria to evaluate the potential to use available surface water and groundwater supplies as management projects to meet the goals and objectives of the IMP. In order to create a unified approach across the basin the NeDNR and the Upper Platte River Basin NRDs established an interlocal cooperative agreement (ILCA).

8.5.1 Interlocal Cooperative Agreement (Platte Basin Coalition)

The Platte Basin Coalition (PBC or Coalition) is the ILCA the Upper Platte River Basin NRDs and the NeDNR established. The Coalition serves as a venue for obtaining funding, project evaluation criteria, and technical support, in order to assess

incentive programs aimed at reducing consumptive use within the overappropriated portion of the Upper Platte River Basin.

8.5.1.1 Protocols

Through the Coalition, the Upper Platte River Basin NRDs and the NeDNR have developed a protocol to follow when evaluating potential projects including the retirement of water uses and the implementation of other offset projects. This protocol provides a means to evaluate potential projects to assess the appropriate amount of funding to allocate toward that project from the Coalition. The evaluation incorporates data from the COHYST 2010/WWUM models and other tools, which include consideration of cyclical water supplies, to evaluate the potential impact of the project on streamflows. Projects with a greater or quicker impact on the stream are given preference over those that do not have as much of an impact. Project costs, benefits, permitting, and regulatory constraints are also considered.

8.5.1.2 Funding

The ILCA is partially financed by the Water Resources Cash Fund (WRCF). The WRCF receives monies from both the general fund and the Nebraska Environmental Trust (NET). Under statute, the WRCF may be used in overappropriated or fully appropriated areas for projects to study, develop, and implement management actions that result in reduction of consumptive use of water, enhancement of streamflows, or enhancement of groundwater recharge. Funding of projects through the Coalition is shared between the Upper Platte River Basin NRDs and the NeDNR. Coalition members approve all project and study budgets as well as expenditures for studies. The Coalition will simultaneously seek outside sources of funding to increase the leveraging ability of the local dollars spent on projects. More on funding for this IMP is discussed in Chapter 6 above.

8.5.1.3 Technical Work

The five Upper Platte River Basin NRDs and the NeDNR have a technical working group to address technical issues and statutory aspects of the Basin-Wide Plan and IMPs. The Upper Platte River Basin NRD managers and the NeDNR will agree to technical analyses prior to beginning any work. The PBC will approve expenditures for technical work.

The technical working group evaluates all aspects of analysis, including the conceptual design, data evaluation, and evaluation of the results. It is then the responsibility of the technical group to translate the results of any analyses to the administrators for either incorporation into this IMP or evaluation towards meeting IMP goals.

During this increment, the technical group will evaluate various aspects of data and models that may include the effects of conservation measures on depletion results, more efficient methods to track changes regarding irrigated lands, or areas where analyses may be simplified. The technical group will follow the basin-wide tenets outlined in Section 7.2 while carrying out any work necessary for the implementation of this IMP.

9.0 GOALS AND OBJECTIVES

The NeDNR and the five Upper Platte River Basin NRDs conducted a Robust Review as part of the actions required in the first increment. This analysis provided each Upper Platte River Basin NRD with the information necessary to assess their progress in meeting the goals and objectives of their individual first increment IMPs as well as the progress for the Upper Platte River Basin. The outcome of the 2019 Robust Review showed that the TPNRD met their IMP targets as defined for the first increment. The 2019 Robust Review also indicated that the current increment is necessary to continue to meet the goals and objectives. The 2019 Robust Review results have provided IMP targets for this second increment.

Actions to support the successful implementation of the goals and objectives in this Chapter can be found in the Chapter 10: Action Items. Refer to Figure 4 in Section 8.3 for a map of the planning reaches described within these goals and objectives.

Goal 1: Reach and Maintain a Fully Appropriated Condition

To incrementally achieve and sustain a fully appropriated condition while maintaining economic viability, social and environmental health, safety, and welfare of the basin.

Objective 1.1: *Within this increment of this IMP, implement measures to address impacts of streamflow depletions to surface water appropriations and water wells constructed in aquifers dependent upon recharge from streamflow to the extent those depletions are due to water use initiated after July 1, 1997.*

Post-1997 depletions must be offset, in incremental pieces, by the end of the second increment.

During the first increment, many successful programs and projects were implemented. A summary of offset actions can be found in Section 8.2 of this plan. These offset actions were analyzed as part of the 2019 Robust Review to determine their impacts on streamflows and meeting post-1997 targets.

The results of the Robust Review indicate that additional incremental management actions will be required by the TPNRD to offset post-1997 depletions. Based on the current Robust Review results, the TPNRD is projected to need to implement post-1997 mitigation measures of up to 25,000 AF within

the District by 2029. These mitigation measures are split between the three reaches within the District as shown in Table 1 below. However, based on preliminary results of the 2013 Conservation Measures Phase II Study, it is expected that incorporation of data representing post-1997 tillage practice changes and other efficiency improvements will modify estimates of the total post-1997 depletions and the amount of offsets that will be required in this increment. The inclusion of mitigation actions after 2013 will also change the results. Other modeling limitations identified in the 2019 Robust Review Report will be evaluated and incorporated into updated post-1997 mitigation targets prior to September 2023. Therefore, the NeDNR and TPNRD have agreed to implement an incremental approach in addressing the necessary mitigation measures in this increment as described in Chapter 10 (Figures 14 and 15).

The first increment goal of implementing approximately 7,000 AF of post-1997 mitigation measures will be increased to approximately 14,000 AF for implementation prior to September 2023. Additionally, to support efforts to address key model limitations prior to the next Robust Review update, the TPNRD will implement mandatory water use reporting requirements for all groundwater users in the District, described in the Groundwater Controls in Section 10.6.1.

Targets

To track progress toward meeting Objective 1.1, targets are set based on the trend line of the 2019 Robust Review modeled results (Section 8.4) for the short term and long term. These are the values that are to be offset through this increment. Future management actions and changes in water use will be analyzed using the technical tools available (according to the tenets in section 7.2). It is recognized that current model projections will be different from model results from analyses that incorporate actual future conditions therefore the technical analysis must account for variability and the actual practices and projects being implemented must be considered. The methodology for evaluating the targets and a description of triggers used to assess offset progress can be found in Chapter 10, Action Items.

1. Short-Term Planning Targets

Table 1. *TPNRD offset targets for the South Platte River, North Platte River, and below the confluence for short-term planning purposes based on 2019 Robust Review trend line.*

TPNRD Annual Short-Term Offset Targets			
Year	South Platte River (AF)	North Platte River (AF)	Below Confluence (AF)
2019	-5,900	-6,900	-10,100
2020	-6,000	-7,000	-10,100
2021	-6,200	-7,000	-10,200
2022	-6,300	-7,100	-10,200
2023	-6,500	-7,100	-10,300
2024	-6,600	-7,100	-10,300
2025	-6,800	-7,200	-10,400
2026	-6,900	-7,200	-10,400
2027	-7,100	-7,300	-10,400
2028	-7,200	-7,300	-10,500
2029	-7,400	-7,300	-10,500

The values shown in Table 1, given in acre-feet (AF), are the best estimates of offset targets for the second increment of the IMP from the trend line of modeled depletions from the most recent Robust Review analysis of groundwater only irrigation development after 1997, expansion of municipal and industrial uses after 1997, and management activities through 2013 in TPNRD. The methods used to develop these targets for the TPNRD are described in the 2019 Robust Review report and in Chapter 8 of this IMP. A graph of the complete 2019 Robust Review results can also be found in Chapter 8. Using the trend line values as the targets recognizes the variability in the modeled Robust Review results. Since the variability is primarily caused by the climate used to simulate the future, it is not expected that the observed conditions will match the modeled conditions; therefore any future analysis compared to these targets must also account for this variability and be adjusted accordingly with an updated trend line and interannual variability range. The depletion amounts shown in Table 1 and the targets are subject to change based upon and these targets are subject to change based upon the next Robust Review (described in Section 10.7.3.2), which will use the best scientific data and information available. The process for revising the IMP, if the targets change, is outlined in Section 10.9.

2. Long-term Planning Target

Table 2. *TPNRD offset targets for the South Platte River, North Platte River, and below the confluence for long-term planning purposes based on 2019 Robust Review trend line.*

TPNRD Annual Long-Term Offset Targets			
Year	South Platte River (AF)	North Platte River (AF)	Below Confluence (AF)
2059-2063 average	-12,100	-8,600	-12,000

The long-term targets are shown in Table 2. These are the average offset targets for the five-year period of 2059-2063 from the most recent Robust Review modeled results trend line. A graph of the complete 2019 Robust Review results can be found in Chapter 8 of this IMP. Using the trend line values as the targets recognizes the variability in the modeled Robust Review results. Since the variability is primarily caused by the climate used to simulate the future, it is not expected that the observed conditions will match the modeled conditions; therefore any future analysis compared to these targets must also account for this variability and be adjusted accordingly. These targets are the current best estimates and are subject to change based upon the next Robust Review (described in Section 10.7.3.2), which will use the best scientific data and information available. The process for revising the IMP, if the targets change, is outlined in Section 10.9.

If post-1997 depletions are offset before the end of this increment, that progress must be maintained throughout this increment. This falls under Objective 1.2.

Objective 1.2: *Maintain previous increment mitigation progress.*

Since TPNRD has not offset the post-1997 depletions, the focus of this increment will be Objective 1.1.

The NeDNR and the TPNRD will keep policies, projects, and practices in place, as appropriate, that provide offsets or supply equivalent offsets so that the current level of depletions is not exceeded.

It is recognized that some actions undertaken in the first increment are temporary projects, which may come to an end during the second increment. If post-1997 depletions are offset before the end of this increment, that progress will be maintained.

Objective 1.3: *Make progress toward a fully appropriated condition.*

During the first increment, two analyses were performed to estimate the balance of water supplies and demands within the Upper Platte River Basin. This included an estimate of all groundwater depletions to streamflow, including depletions from uses prior to and after July 1, 1997 (Total Depletions), and the INSIGHT analysis. Both are described in Section 8.4.

NeDNR and the Upper Platte River Basin NRDs will continue to evaluate total depletions and water supplies and demands within the basin. NeDNR and the Upper Platte River Basin NRDs will continue to work to develop an estimate for a fully appropriated condition.

Impacts of streamflow depletions due to water use initiated prior to July 1, 1997, to 1) surface water appropriations and 2) water wells constructed in aquifers dependent upon recharge from streamflow may be addressed prior to a subsequent increment with the intent of achieving a fully appropriated condition.

Objective 1.4: *Review the implementation of this IMP to ensure that the IMP provisions are adequate to sustain progress toward and/or maintain a fully appropriated condition.*

Objective 1.5: *Once a fully appropriated condition is achieved, maintain such condition through the implementation of the IMP.*

Goal 2: Interstate Compliance

To ensure that no act or omission of the TPNRD or the NeDNR would cause noncompliance by Nebraska with any interstate decree, compact, or other formal state contract or agreement.

Objective 2.1: *Ensure that no act or omission of the TPNRD or the NeDNR would cause noncompliance by Nebraska with the NNDP included within PRRIP, for as long as PRRIP exists.*

Objective 2.2: *Ensure that the groundwater and surface water controls adopted in the TPNRD IMP are sufficient to ensure that the state will remain in compliance with the NNDP.*

Objective 2.3: *Collectively, as defined in the NNDP, offset the new depletions caused by new uses within the Upper Platte River Basin NRDs.*

Objective 2.4: *Ensure that for post-1997 new or expanded uses, including irrigation, municipal, industrial, rural domestic and other new water related activities are assessed and offset for compliance with the NNDP. This assessment will be part of the Robust Review, explained in Section 10.7.3.2 of this plan.*

Goal 3: Consistency, Communication, and Updates

Keep the IMP current, maintain consistency with the Basin-Wide Plan, and keep water users informed.

Objective 3.1: *Amend this IMP as needed to remain consistent with the Basin-Wide Plan.*

Objective 3.2: *Participate in basin-wide planning activities*

Objective 3.3: *Improve information sharing with interested parties.*

Objective 3.4: *Conduct planning for subsequent increments of the plan, as necessary.*

Objective 3.5: *If appropriate and necessary, follow the dispute resolution process in the Basin-Wide Plan.*

10.0 ACTION ITEMS

Chapter 10 contains the action items that will be carried out to accomplish the goals and objectives of the IMP. The action items described in this Chapter are intended to be consistent with the requirements of *Neb. Rev. Stat. § 46-715(3)*.

These actions range from ongoing non-regulatory actions such as information and education efforts, to maintenance of current regulatory actions, and the potential for future increased controls if certain triggers cannot be achieved through the other actions taken by the TPNRD or the NeDNR. As described within this Chapter, more details on the statutes or rules followed by the TPNRD or the NeDNR can be found at the offices of each respective agency. For purposes of transparency/simplicity, the full length of those documents are not repeated herein, so the reader is directed to each agency to read the full details on how any particular action item may be carried out.

10.1 Information and Education Programs

The TPNRD and the NeDNR will provide educational materials to the public and/or carry out educational activities that may include, but not be limited to, the following:

- The fully appropriated determination;
- The overappropriated designation;
- The IMP;
- The Nebraska New Depletion Plan;
- The Platte River Recovery Implementation Program;
- Hydrologically connected groundwater and surface water;

- Invasive species management;
- Conversion of irrigated acres to dryland agriculture or wildlife habitat;
- Limited irrigation cropping systems;
- Soil residue and tillage management;
- Alternative crops;
- Water use measurement techniques;
- Eco-tourism, crop diversification, changes in land use, to support diversity in revenue streams of water users within the basin, as a means of maintaining economic viability;
- Educational programs to support the implementation of incentive programs; and
- Funding sources for programs that enhance water supply.

These educational materials and/or activities may include, but not be limited to, joint public meetings, pamphlets, and website information.

10.2 Incentive Programs

The NeDNR and/or the TPNRD intend to establish, implement, and/or continue financial or other incentive programs to reduce consumptive use of water within the District to meet the goals and objectives of this IMP.

A. State or Federal Programs

Incentive programs include any program authorized by state law and/or federal programs such as the Conservation Reserve Enhancement Program (CREP) and the Environmental Quality Incentive Program (EQIP).

B. Other State or TPNRD Programs

The TPNRD and the NeDNR may investigate opportunities to reduce the consumptive use of water in order to enhance water supply as well as other water supply improvement projects. The TPNRD and the NeDNR may develop an incentive-based program if such an opportunity exists.

1. All projects and programs will:

- Use the best science readily available. This will follow the basin-wide tenets outlined in Section 7.2. These will be consistently evaluated according to the protocol developed by the PBC. Benefits will be assessed using the agreed upon methods and tools.
- Enhance groundwater quantity, groundwater quality, and recognition of the value of return flows.

- Remain in compliance with any state or federal laws, contracts, interstate compacts, or decrees that govern the water use of the irrigation districts
2. The general process will be:
- For existing surface water appropriations, contact the appropriators to determine willingness to cooperate, lease and/or sell those appropriations. If willing, develop and execute contract(s) with appropriator(s).
 - Work with irrigation districts, not just individual landowners served by the irrigation district, when potential projects affect the operation of the irrigation district.
 - Retirement of surface water rights (permanent or temporary). Retired surface water rights are still viable rights under statute. While typically a surface water right which has not been used for more than five years may be cancelled due to nonuse, under *Neb. Rev. Stat. § 46-229.04*, if the appropriation is not being used because it is part of a acreage reserve program, or other state or federal program, there is sufficient cause for nonuse and the right is still valid. If the land is no longer under a program, this applies for up to 15 years as long as there are not more than five consecutive years of nonuse while the land is not under a program.
 - For existing groundwater uses, contact the landowner(s) to determine willingness to cooperate with the proposed project(s). If willing, develop and execute contract(s) with such landowner(s).
 - Submit permit application(s) if required by Nebraska statutes.
 - Implement the approved projects.
3. At this time, the specific other programs that have been identified are:
- Potential purchase or lease of surface water irrigation district appropriations in order to transfer those appropriations to intentional recharge appropriations.
 - Exploration of water supply opportunities on the South Platte River.

10.3 Water Banking

The TPNRD will establish a water bank. The TPNRD will purchase or otherwise acquire certified groundwater irrigated acres or other groundwater uses or surface water use appropriations. The TPNRD will hold the water in its water bank for the purposes of:

- Offsetting new or expanded consumptive uses;
- Saving water to meet statutory requirements or interstate agreement obligations;

- Saving water to meet future incremental targets toward achieving a fully appropriated condition; or
 - Future sales to individuals as offsets for development of new consumptive uses of groundwater within the District.
- A. The TPNRD and the NeDNR will follow the basic tenets from Section 7.2 while implementing the water bank.
- B. The TPNRD will contact the NeDNR prior to purchasing or acquiring surface water appropriations for deposit in the water bank. The NeDNR will conduct a field investigation of the surface water appropriation and notify the TPNRD of the results of that investigation within 90 days. The TPNRD will work collaboratively with the NeDNR in performing the analysis to evaluate the bankable volume of water resulting from the retirement of the surface water appropriation. The TPNRD will follow the appropriate statutes and rules and regulations of the NeDNR for approval if the surface water appropriation is to be transferred to another use.
- C. The TPNRD will obtain and maintain permanent easements, lease agreements or other agreements on all property from which surface water or groundwater uses have been retired for purposes of the water bank.
- D. The TPNRD shall annually report all water banking deposits, withdrawals, and other activities according to the specifications described in Section 10.7 of this IMP.
- E. When carrying out any water banking activity, the TPNRD shall follow the procedures for any groundwater regulatory action (e.g. transfers, certification, or municipal and non-municipal industrial accounting) applicable to such activity. When carrying out any surface water related water banking activity, the TPNRD shall follow the appropriate state statute and the NeDNR rules and regulations.

10.4 Conjunctive Management

Conjunctive management projects¹⁶ allow for the optimum use of hydrologically connected surface water and groundwater supplies, so that the variability seen in surface water supplies can be smoothed out over time, allowing water users to wisely store water during periods of surplus and, in a managed fashion, withdraw that stored water in times of shortage, overall increasing the available supply through time. Conjunctive management projects can also create benefits such as mitigating groundwater level declines, reducing flood flows, and offsetting depletions. The NeDNR and the TPNRD will identify conjunctive management opportunities and implement such projects with the purpose of meeting the goals and objectives of this IMP.

Conjunctive Management may include, but is not limited to, the following:

¹⁶ See Section 8.1.3 Conjunctive Management Study for more information and a definition of “conjunctive management.”

- Transfer existing surface water appropriations or apply for new appropriations for groundwater recharge or intentional recharge, and recovery when appropriate, in existing canals during the irrigation or non-irrigation season; temporary permits can be issued for the diversion of flows in excess of existing appropriations, which would occur outside of the irrigation season;
- Develop new infrastructure (e.g. dams or canals) that may include groundwater recharge or intentional recharge projects, and recovery when appropriate;
- Temporarily transfer existing surface water appropriations within the District to streamflow augmentation, instream flow appropriations, or an instream use¹⁷;
- Develop other groundwater projects for the purpose of providing net accretions to the river;
- Facilitate contractual agreements between water users; and
- Reduce consumptive use by permanently or temporarily retiring irrigated land.

The Upper Platte River Basin NRDs and the NeDNR will develop mutually agreed upon procedures for conducting conjunctive management projects. This will include procedures for determining when and where projects can be carried out (for example determining and communicating when and where excess flows are available), procedures for carrying out projects (permitting, contracting, and payment procedures), tracking projects and maintaining data records, sharing data, cooperating with other entities wishing to use excess flows, and methods for determining benefits from projects (annually for IMP/Basin-Wide Plan/PRRIP reporting and for Robust Review purposes). Conjunctive management projects can be passively managed or actively managed. Techniques which can be actively managed and returned to the stream do have benefits over those that are passive (timing and volume of return is uncontrolled, unmanaged, unknown). Actively managed projects, such as storage of excess water, can be returned to the stream at a specific time in controlled volumes. Passively managed projects, such as recharge of groundwater through excess flow diversions, return to the stream gradually over time and the rate and volume depends on the underlying aquifer material and proximity to the stream.

¹⁷ *Neb. Rev. Stat. § 46-290(5)* states that “For any transfer or change approved [to augment flow in a specific stream reach for any instream use,] the Department shall be provided with a report at least every five years [...] to indicate whether the beneficial instream use for which the flow is maintained or augmented continues to exist”. Title 457 of the *Department of Natural Resources Rules for Surface Water* Chapter 9 Section 002.01 states “For purposes of 46-290(5) R.R.S. 1943, as amended, beneficial use for instream uses shall include a. Water Quality Maintenance b. Water necessary for compliance with compacts, decrees or other state contracts.”

The ability to capture and use excess flows is dependent on advanced notice of the availability of excess flows. The NeDNR will develop a protocol for assessing, predicting, and communicating 1) the potential of excess flows to basin water users, and 2) notice of actual availability of excess flows. The TPNRD and the NeDNR will work collaboratively to record the excess flows diverted, the excess flows diverted into recharge sites, and the amount of water returning to the river at canal return flow structures. Additionally, TPNRD and the NeDNR will collaboratively review and analyze the data from the excess flow diversions to determine the amount of recharge that occurred during the event within the canal and recharge pits. Data on canal recharge and conjunctive management projects will be shared as part of the annual reporting process, described in Sections 10.7. The recharge will be analyzed in future Robust Reviews or other analyses.

In order to optimize the implementation of various conjunctive management projects where diversions of excess streamflow will occur, operational plans for each project should be developed. These operational plans should include enhanced monitoring and flow of information and data to effectively manage and use any available water. These operational plans will provide the NeDNR with objective criteria by which various projects may be prioritized in order to most effectively use available excess flows. The public interest will be best served when the most effective projects are selected for diversion during excess flow periods. In addition, such plans and operational attributes will be useful in establishing good cause and passing public interest tests when petitions and applications are filed with the NeDNR.

10.5 Drought Planning

The basin drought contingency plan will serve as a guide for plans developed by each individual Upper Platte River Basin NRD. District-level mitigation measures and response actions corresponding to the drought conditions will be identified and implemented at the individual NRD level.

Elements of the TPNRD plan include:

- Vulnerabilities
- Triggers
- Mitigation actions
- Response actions
- Plan administration

The basin-wide drought plan is to be completed within the first three to five years of the increment. It is anticipated that the TPNRD drought plan would be completed after the basin-wide drought plan, as the basin-wide drought plan is to provide guidance on the

TPNRD drought plan. The TPNRD and NeDNR will work with water users in the District and consider their input when developing the TPNRD drought plan.

10.6 Controls and Triggers

10.6.1 Groundwater Regulatory Actions (Controls)

The TPNRD will periodically review the controls being implemented to carry out the goals and objectives of this IMP. The TPNRD may adjust, modify, expand, or add controls, based on the annual review of the progress being made toward achieving the goals of this IMP, and pursuant to *Neb. Rev. Stat* § 46-715(5)(d)(ii). No controls may be removed, however, unless and until the TPNRD and the NeDNR amend this IMP. The controls may not be modified in such a manner as to conflict with the goals and objectives of this IMP.

The TPNRD will consider the timing, location and amount of the depletion for all actions in order to prevent adverse impacts on existing groundwater and surface water users. Actions include, but are not limited to, these controls: moratorium variances, certified acre modifications, transfers, large user permits, municipal and industrial permits, and other variances.

The evaluation criteria for a control or other action include, but are not limited to, the following:

- Impacts to existing groundwater or surface water users;
- Increases in depletions to the river;
- Increases in consumptive use;
- The amount, location and timing of any changes in depletions or accretions to the river;
- Any adverse effects on the state's ability to comply with PRRIP;
- Consistency with the purpose of the IMP; and
- Protection of the public interest and public welfare.

The NeDNR and the TPNRD will coordinate with the other Upper Platte River Basin NRDs to continue applying a consistent method of calculating depletions or accretions to the stream, following the basin-wide tenets outlined in Section 7.2, when such calculations are necessary to implement groundwater regulatory actions. Any actions taken by the TPNRD will be documented and shared with the NeDNR pursuant to Section 10.7.1. The TPNRD will work with the well owner to update the water well registration to reflect the permitted actions to reflect the new or additional use.

The TPNRD will implement the following controls throughout their District, as authorized by *Neb. Rev. Stat. § 46-739*, and will continue to do so in the future. These controls apply to the fully appropriated and overappropriated areas of the TPNRD. The specifics of the processes for all of these controls, including the evaluation criteria, can be found in the TPNRD's *Districtwide Ground Water Management Area and Integrated Management Sub-Area Rules and Regulations*.

10.6.1.1 Moratorium

The TPNRD has implemented a moratorium on the issuance of water well construction permits and on new or expanded groundwater uses. The TPNRD may grant a variance from the moratorium if there is an offset for any new or expanded use, or if there will be no increase in consumptive use due to the new or expanded use.

10.6.1.2 Certification of Irrigation Uses

All groundwater irrigation uses have been certified by the TPNRD. The TPNRD may grant modifications to certified acres.

10.6.1.3 Large User Permits

A Large User Permit will be required for a public water supplier, with the exception of municipalities, who desires to modify or expand their consumptive use of water.

10.6.1.4 Variances

The TPNRD may grant a variance for good cause shown for any of the controls in this IMP or within the TPNRD's rules and regulation.

10.6.1.5 Mandatory Education

The TPNRD already has an existing water quality education requirement. In addition, the TPNRD will also implement a water quantity education requirement with the intent of informing producers on current best methods of reducing consumptive use of crops and increasing water use efficiency.

10.6.1.6 Mandatory Data Collection

The TPNRD will implement and require a water use data collection program, the intent of which is for the Robust Review analysis. The TPNRD will put the water use data collection program into place as soon as possible in order to incorporate data into the analyses in a timely fashion.

10.6.1.7 Transfers

- A. The purpose of a groundwater transfer is to allow for the consumptive use of groundwater to be changed either in location or purpose. A transfer permit

from the TPNRD shall be required before any transfer, as identified below, may be allowed. The TPNRD may permit, regulate, or take action on the following types of groundwater transfers:

- Physical transfer of groundwater off of the overlying land
 - Transfer of the type of use or addition of use
 - Transfer of certified irrigated acres
 - Physical transfer of groundwater and transfer of certified irrigated acres between the TPNRD and an adjoining Upper Platte River Basin NRD
 - Municipal transfer permit (if the applicant does not have a municipal transfer permit from the NeDNR)
 - Industrial transfer permit (if the applicant does not have an industrial municipal transfer permit from the NeDNR)
 - Transfers out of state
- B. The following types of groundwater transfers involve coordination communication between the NeDNR and the TPNRD when issuing a permit.
- Municipal Transfer Permits – Transfers without a municipal and rural domestic transfer permit from the NeDNR will require a transfer permit from the TPNRD;
 - Industrial Transfer Permits – Transfers without an industrial transfer permit from the NeDNR will require a transfer permit from the TPNRD;
 - Transfer Out of State – The NeDNR will consult with the TPNRD when considering applications filed to transfer groundwater out of state, pursuant to *Neb. Rev. Stat. § 46-613.01*. The TPNRD will take action to approve or deny the transfer request based on the same criteria that the NeDNR uses prior to issuing a transfer permit; and a water well construction permit shall not be issued unless and until the board of the TPNRD has granted a variance to the moratorium on the issuance of water well construction permits and has approved the transfer permit.

10.6.1.8 Municipal and Industrial Accounting Required for the Calculations of Baselines and the Determination of Allocations

As described within Goal 2 Objective 2.4 of this plan, for purposes of compliance with the NNDP the TPNRD will be responsible for offsetting all increases in consumptive use that result in streamflow depletions due to changes in municipal and industrial consumptive use after 1997, unless some portion of the

increase is greater than an allocation of the municipality or industry that was set in accordance with *Neb. Rev. Stat. § 46-740*, then the NRD may require the municipality or industry to provide offsets for that portion.

The TPNRD Rules and Regulations provide the necessary guidance on Municipal and Industrial Accounting. There are specifically designated sections for municipal use and industrial use prior to January 1, 2026, and how to handle those offsets after January 1, 2026.

10.6.2 Triggers

In order to determine whether additional groundwater regulatory actions are needed to meet the streamflow targets for the North Platte, South Platte, and Platte River below the confluence, the annual stream depletion amounts shown in Table 1 under Goal 1 Objective 1.1 will be compared to the stream accretions resulting from the actions taken by the TPNRD and any new depletions resulting from new uses and increased depletions resulting from existing uses. If the annual net sum of the accretions resulting from the actions taken by the TPNRD and the annual depletions (shown in Table 1) are greater than or equal to zero, regulatory actions will not be required (assumes accretions are a positive number and depletions are negative).

At this time, it is anticipated that annual progress will be measured using an analytical accounting method, similar to that described in the Basin-Wide Technical Committee Guidance Document: Procedures for Annual Accounting Review and Robust Review to Assist Integrated Management Planning and Facilitate Reporting to the Platte River Recovery Implementation Program¹⁸, to estimate new accretions and depletions as compared to the values in the Table 1 in Chapter 9 of this IMP.

The NeDNR and the TPNRD recognize the potential for the implementation of voluntary programs, incentive measures, or other projects to provide stream accretions that will help bring the post-1997 depletions and accretions to a net sum of greater than or equal to zero in the next increment, and will work diligently to implement measures to provide stream accretions in a timely manner. The NeDNR and the TPNRD also recognize that the current Robust Review results have limitations which will be addressed throughout the plan increment and that as Robust Review results are updated to address those limitations that the target values described within the plan sections below may need to be updated. Regular progress toward meeting the goal of a net sum of accretions and depletions of greater than or equal to zero must be demonstrated, which will be determined by the indicator and trigger milestones discussed below.

¹⁸ The protocol document, *Basin-wide Technical Committee Guidance Document – Procedures for Annual Accounting Review and Robust Review to Assist Integrated Management Planning and Facilitate Reporting to the Platte River Recovery Implementation Program*, can be found at <https://dnr.nebraska.gov/water-planning/other-upper-platte-river-documents>

10.6.2.1 Milestones

To determine if progress toward a net sum of accretions and depletions to the river equal to or exceeding zero has been achieved and to determine progress meeting the goals and objectives of this IMP, the NeDNR and the TPNRD will jointly perform a new Robust Review analysis in 2023 and 2027 to evaluate the overall effects to streamflow. Any analysis to compare future actions with these triggers must take into account the variability of actual future climate conditions and make a comparison using trended results. The new Robust Review may change the values found in Table 1 under Goal 1 Objective 1.1 and therefore may change the target values the indicator and triggers. The process for revising the IMP, if the targets and triggers change based on the next Robust Review, is outlined in Section 10.9. Figures 14 and 15 display the timeline of the evaluation of the indicator and triggers with the values from the current Robust Review shown.

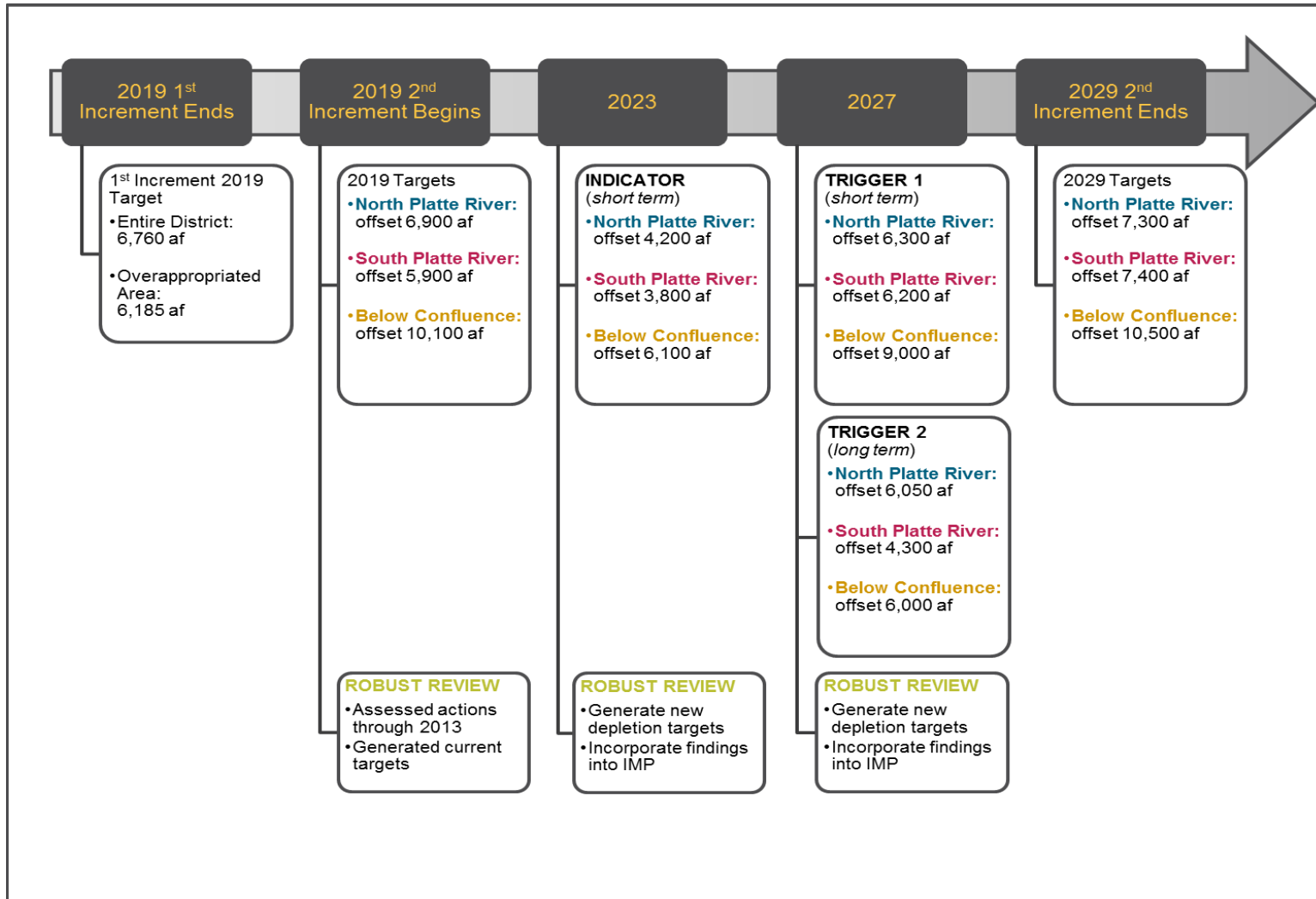


Figure 14. Timeline of milestones for the current increment: targets, indicators, triggers and Robust Review analyses.

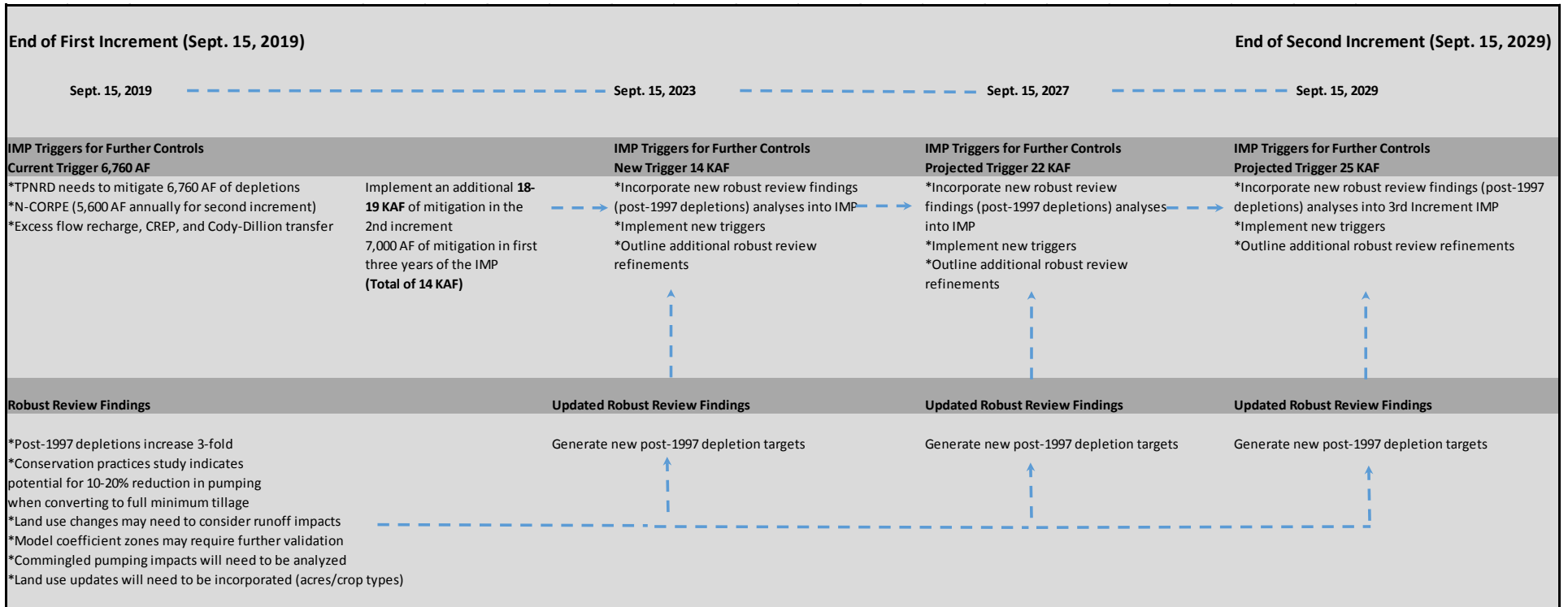


Figure 15. Detailed timeline of milestones for the current increment: targets, indicators, triggers, and Robust Review analyses.

The indicator was established by considering the progress the TPNRD made during the first increment by reaching their goal of offsetting 6,760 AF. By the end of the current increment, they will need to have offset a total 25,200 AF. TPNRD and NeDNR have agreed that 40 percent of the remaining offset requirement of 18,440 (40 percent being 7,380 AF), in addition to the 6,760 offsets achieved in the first increment, should be provided by 2023. This is 14,100 for TPNRD, which is broken down to the three reaches for the indicator.

A. Indicator – 2023 Short-Term

If, by the end of 2023, an accretion to the river equal to or exceeding 4,200 AF to the North Platte River, 3,800 AF to the South Platte River, and 6,100 AF to the Platte River below the confluence annually and every year thereafter throughout the first 10 year increment has not been met, the NeDNR and the TPNRD will jointly determine what steps need to be taken to ensure that the agreed upon regulatory actions will be in place by the beginning of the 2025 irrigation season.

- i. If the indicator has not been met by the end of 2023, but programs and/or projects that have been or will be implemented for the purpose of meeting this indicator will provide sufficient accretions to the river annually and every year thereafter throughout the current 10 year increment by the end of 2024, the NeDNR and the TPNRD will jointly determine that steps to implement regulatory actions will not be required.

B. Trigger 1 – 2027 Short-Term

If, by the end of 2027, an accretion to the river equal to or exceeding the annual values resulting from the most recent Robust Review that year every year thereafter throughout the current 10 year increment has not been met, the NeDNR and the TPNRD will jointly determine what steps need to be taken to ensure that the agreed upon regulatory actions will be in place by the beginning of the 2028 irrigation season.

C. Trigger 2 – 2027 Long-Term

By the end of 2027, measures will be in place to achieve an accretion to the river equal to or exceeding an annual rate of seventy percent of the required for the 50-year long-term planning target as determined by the most recent Robust Review. If this trigger has not been met, the NeDNR and the TPNRD will jointly determine what steps need to be taken to ensure that the agreed upon regulatory actions will be in place by the beginning of the 2028 irrigation season.

Section 10.7 describes how progress toward achieving the indicator and triggers will be measured. The indicator and trigger values from Table 1 come from the

2019 Robust Review analysis results trend line through the model data. The trend line is the average of the model results that vary due to climate inputs. It is not expected that the future modeled data will match the 2019 Robust Review analysis results exactly due to differences in the model inputs used for the analysis and future observed conditions. Any analysis to compare future actions with these triggers must take into account the variability of actual future climate conditions and make a comparison using trended results.

10.6.2.2 Groundwater Controls in Response to Triggers

At this time, the NeDNR and the TPNRD have identified the following groundwater controls as potential regulatory actions that may be implemented in response to triggers:

Prior to implementation of any of the groundwater controls listed below, the TPNRD and the NeDNR will agree to the method of implementation and the methods used to measure the success of the control(s) in reaching the goals and objectives of Chapter 9 of this IMP.

In order to reach these goals and objectives, a limit on the amount of consumptive use on certified irrigated acres within the boundaries of the District may be implemented. The methods by which a limit on the amount of consumptive use would be implemented include, but are not limited to, the following:

A. Alternative Crop Mixes (*Neb. Rev. Stat. § 46-739(b)*)

Alternative crop mix would mean planting a mix of crops over a specified period of years for the certified irrigated acres within the overappropriated area for which there would be an upper limit on the consumptive use allowed. The amount of consumptive use allowed would be determined by the TPNRD after consultation with the NeDNR.

B. Reduction of Certified Irrigated Acres

A reduction of certified irrigated acres would mean a set percentage reduction in certified irrigated acres within the overappropriated area. The amount of the reduction would be determined by the TPNRD after consultation with the NeDNR.

C. Allocation

An allocation would mean a uniform allotment of the withdrawal of groundwater to be applied to certified irrigated acres during a specified period within the overappropriated area. The amount of the allocation would be determined by the TPNRD after consultation with the NeDNR.

10.6.3 Surface Water Regulatory Actions (Controls)

10.6.3.1 Summary of Surface Water Controls

The following surface water controls as authorized by *Neb. Rev. Stat. § 46-716* will be implemented and/or continued by the NeDNR. The NeDNR will periodically review the controls being implemented to carry out the goals and objectives of this IMP. The NeDNR may adjust, modify, expand, or add controls, based on the annual reviews of the progress being made toward achieving the goals of this IMP, and pursuant to *Neb. Rev. Stat. § 46-715(5)(d)(ii)*. No controls may be removed, however, unless and until the TPNRD and the NeDNR amend this IMP. The controls may not be modified in such a manner as to conflict with the goals and objectives of this IMP.

- A. The NeDNR will continue the moratorium on new surface water appropriations in the portion of the Platte River Basin within the boundaries of the District, unless a variance is granted by the NeDNR according to its rules.
- B. Transfers of surface water appropriations will be in accordance with statutes and the NeDNR rules.
- C. The NeDNR will continue to require measuring devices for new appropriations and to close any non-metered diversions during times of shortage regardless of priority in the portion of the Upper Platte River Basin within the boundaries of the TPNRD.
- D. The NeDNR shall continue to administer surface water appropriations according to the provisions of the permit, statute, NeDNR rules and regulations, and any applicable interstate compact decree or agreement.
- E. The NeDNR shall continue to monitor the use of surface water to prevent unauthorized uses.
- F. As discussed and agreed to by the stakeholder group, to compliment the mandatory education and data collection groundwater controls for the TPNRD, the NeDNR will expand data collection on surface water uses and provide education related to surface water data in the portion of the Upper Platte River Basin within the boundaries of the TPNRD. To do this, NeDNR will:
 - 1. Inventory available surface water use data and measurements. This would include stream gages, canal diversions and returns, field deliveries, and any other relevant data.
 - 2. Evaluate what additional data might assist with the implementation of the IMP, including the Robust Review analysis.
 - 3. Provide surface water users with information and education related to NeDNR's existing voluntary water use reporting program. The

voluntary water use reporting will target collection of available information about the quantity of water pumped (diverted), the number and location of acres irrigated, crop types, and other attributes of on-farm operations (e.g., irrigation system types, tillage practices, etc.)

4. Determine the feasibility of collecting additional data and move forward with such collection if appropriate.
- G. For conjunctive management projects as described in Section 10.4, the NeDNR may, via the permit approval process, require additional monitoring, measurements, and reporting of diversions, returns, seepage, and/or evaporation.
- H. Except as provided in (1) below, the NeDNR will not require surface water appropriators to apply or use conservation measures.
1. If, at some point in the future, the NeDNR 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 NeDNR, to identify conservation measures to be applied or used and to develop a schedule for such application and use.
- I. Except as provided in (1) and (2) below, the NeDNR will not require any other reasonable restrictions on surface water use.
1. If, at some point in the future, the NeDNR 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 NeDNR 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 NeDNR, to comment on the proposed restrictions.

10.6.3.2 Summary of Variance, Application, and Transfer Process Considerations

The following are summaries of the NeDNR's variance process, application review process, and transfer process. For full details of these processes, please refer to the applicable statutes and NeDNR rules.

A. Variance Process for New Surface Water Appropriations

1. *Department of Natural Resources Rules for Surface Water, Title 457* provides a process in which a person may request permission to file an application for a new surface water right in a moratorium area.
2. Prior to filing an application in a moratorium area, a person must first petition the NeDNR for leave (request permission) to file an application in a moratorium area. These petitions are called a “variance,” or a “variance petition.”
3. Because the Platte River Basin is currently undergoing integrated management for the purposes of reducing depletions to streamflow, any new application must be examined for its potential effects on extant surface water and groundwater users and upon all matters of significant public interest and concern. This includes assessing both positive and negative impacts on the State’s ability to comply with interstate agreements, programs, decrees and compacts, including PRRIP. Thus, any proposed project must be scrutinized to prevent conflict with (a) the goals and actions necessary to implement the IMPs adopted by the Upper Platte River Basin NRDs and the NeDNR and (b) the water needs of Water Action Plan projects that will be implemented under PRRIP. Applications for potential beneficial uses that are not clearly non-consumptive will be presumed to be at least partially consumptive.
4. Therefore, an analysis of the effects of a proposed new diversion on existing uses and responsibilities is required in order to determine whether sufficient good cause exists to grant a variance to apply for a new use.
5. Within the process for granting a variance the NeDNR shall review the information provided with the petition and shall make a determination as to whether it is sufficient to indicate good cause for allowing further consideration of the application.
 - a. *Nebraska Revised Statute § 46-706* defines “good cause shown” as, “a reasonable justification for granting a variance for a consumptive use of water that would otherwise be prohibited by rule or regulation and which the granting agency, district, or organization reasonably and in good faith believes will provide an economic, environmental, social, or public health and safety benefit that is equal to or greater than the benefit resulting from the rule or regulation from which a variance is sought;”
6. The goals and objectives of this IMP will be considered when examining applications for new diversions of excess flows (unappropriated water) in the Platte River Basin. In fully appropriated and overappropriated areas, projects designed to meet the goals and objectives of the IMP are of

primary importance. In addition to showing good cause in support of the goals and objectives, the effectiveness of each project will be considered. Operational plans that demonstrate effective use of water along with measuring and monitoring will be prioritized. In assessing the public interest and whether a new project should receive an appropriation, the NeDNR must consider how the project will support the goals of the Basin-Wide Plan and IMPs within the Platte River Basin and reasonable conditions that will need to be imposed on prospective appropriations to ensure that over the long term the best use continues to be made of the limited water resources in the basin. Administering new appropriations that are issued for the purpose of achieving these goals and objectives may require other excess flow diversion projects to be limited or curtailed. These requirements will be clearly established within each new appropriation when issued.

7. If the NeDNR grants the variance petition, the petitioner may then file the application for the project. The decision to grant the petition shall not bind the Director of NeDNR (Director) to approve any application to which it relates, or in any way be used as evidence of prejudice for the Director's future decisions concerning the specific approval requirements of such an application. The NeDNR will specify the conditions under which an application may be filed in order to protect the public interest.

B. Application Review Process

The NeDNR's application review process is driven by Nebraska statutes, including but not limited to *Neb. Rev. Stat. §§ 46-233 to 46-235*. The following is not an exhaustive list of all factors used to reach a decision on approval or denial of an application.

1. There must be unappropriated water available in the source of supply and the requirements of a variance petition approval must be met and agreed upon by the applicant.
2. The proposed use must be determined to be beneficial.
3. An appropriation must not be detrimental to the public welfare.
4. Denial of the application is not demanded by the public interest.
5. If the application will be approved, the NeDNR will impose conditions to protect other appropriators and the public interest.

C. Transfer Review Process

Using criteria set out in *Nebraska Revised Statutes*, Chapter 46, regarding transfers, the Director shall review an application for a transfer proposing a change in the location of use; type of appropriation; and or purpose of use, including but not limited to the following:

1. The proposed use of water after the transfer or change will be a beneficial use of water.
2. A request to transfer the location of use is within the same river basin.
3. The change will not diminish the supply of water available or otherwise adversely affect any other water appropriator.
4. The quantity of water that is transferred for diversion or other use at the new location will not exceed the historic consumptive use.
5. The appropriation is not subject to termination or cancellation.
6. If the transfer is to be permanent the preference category may not change.
7. If the transfer is to be temporary, it will be for no less than one year;
8. The transfer or change will not be inconsistent with any applicable state or federal law and will not jeopardize the state's compliance with any applicable interstate water compact or decree or cause difficulty in fulfilling the provisions of any other formal state contract or agreement.
9. The transfer will be in the public interest.
 - a. Consistent with *Neb. Rev. Stat. § 46-294*, the Director's considerations relative to the public interest shall include, but not be limited to, 1) the economic, social, and environmental impacts of the proposed transfer or change and 2) whether and under what conditions other sources of water are available for the uses to be made of the appropriation after the proposed transfer or change.
 - b. Transfers subject to *Department of Natural Resources Rules for Surface Water, Title 457 Neb. Admin. Code, Chapter 9, § 002*, are required to be determined to be in the public interest, "...the Director shall determine whether the benefits of the proposed transfer outweigh any adverse impacts that might occur giving consideration to the economic, social and environmental impacts and whether and under what conditions other sources of water are available for the uses to be made of the appropriation after the proposed transfer or change.
10. The Director may impose any reasonable conditions deemed necessary to protect the public interest.

10.7 Monitoring and Evaluation

The overarching purpose of the monitoring and evaluation section of this IMP is to ensure that the TPNRD reach and/or maintain a fully appropriated condition. The objective of the monitoring and evaluation section is to gather and evaluate data, information, and methodologies that could be used to increase understanding of the

surface water and hydrologically connected groundwater system, to test the validity of the conclusions and information upon which this IMP is based, and to assist decision makers in properly managing the water resources within the District. The described monitoring actions and evaluations are also important in ensuring the state remains in compliance with the NNDP and in keeping the IMP current.

Various methods will be employed to monitor and evaluate the implementation and progress of this IMP. Sections 10.7.1 and 10.7.2 describe the tracking and reporting of water use activities within the District by TPNRD and the NeDNR. The rest of Section 10.7 describes the analyses that will evaluate the progress that has been made toward: addressing streamflow depletions due to new uses begun subsequent to July 1, 1997 (Section 10.7.3); reaching a fully appropriated condition (Section 10.7.4); maintaining a fully appropriated condition (Section 10.7.5); and evaluating whether a subsequent increment is necessary to meet the goals and objectives of this IMP (Section 10.7.6). Statute describes both an annual review (*Neb. Rev. Stat. § 46-715(5)(d)(ii)*) and a second more robust review of new and expanded uses and associated mitigation actions (*Neb. Rev. Stat. § 46-715(5)(d)(iii)*), covered in Section 10.7.3.

10.7.1 Data and Tracking of Water Use Activities

Data from the five Upper Platte River Basin NRDs will be reported in a consistent format across the basin and from year to year to simplify the process of compiling data for the annual review and the Robust Review. A database will be developed to house this data. This database will facilitate the updating of model datasets.

Occasionally, actions for which permits are issued may not actually be implemented. For example, a well permit may be issued but the well not actually drilled. Because of this, in order to maintain accurate records of actual land use, annual permit and land use data should be updated within the database at the end of the next calendar year to reflect which actions did and did not take place. This includes the NeDNR sharing information on any surface water permits cancelled in the calendar year (including temporary permits that expired one year after they are issued). This will help in creating yearly land use datasets when it is time to conduct the Robust Review. Ideally, the permit data should reflect an annual snapshot of changes in land use for that year. This will help update annual land use datasets for the models which will be used for the Robust Review.

A. NRD Tracking

The TPNRD will be responsible for annually tracking and sharing with the NeDNR information on the following activities within the District:

- Certification of groundwater uses and any changes to these certifications
- Approved transfers, including all of the information provided with the application and used in the approval of the transfer, the location of the

land area or well that is being transferred, and the location of the land area or well that will replace the original

- Relevant flow meter data collected
- Any water well construction permits issued
- Any other permits issued by the TPNRD
- Any conditions associated with any permits issued
- Information gathered through the municipal and non-municipal industrial accounting process
- Any variances issued, including the purpose, the location, any required offset, the length of time for which the variance is applicable, and the reasoning behind approval of the variance
- Any retirements of irrigated acres or other activities by the TPNRD for the purpose of returning to a fully appropriated condition
- Information related to any water banking transactions
- Offsets provided for depletions resulting from increased consumptive use related to the above listed items
 - This includes reporting on offsets and mitigation activities for the purpose of addressing post-1997 depletions and for the purpose of sustaining previous increment progress and reaching a fully appropriated condition. Such activities to be reported include canal diversions for the purpose of groundwater recharge, operation of stream augmentation projects, and irrigated acre retirements.
- Summary of available conservation plans of municipalities and industries within the basin including strategies that could be applied to other municipalities in the basin (at the Basin-Wide Annual Meeting)

B. NeDNR Tracking

The NeDNR will be responsible for annually tracking and sharing with the TPNRD information on the following activities within the District:

- Any surface water permits issued
- Any dam safety permits issued
- Any groundwater permits issued
- The associated offsets for any new permits issued
- Any retirements of irrigated acres or other activities by the NeDNR for the purpose of returning to a fully appropriated condition

As new data would show a need for further analysis and to the extent that TPNRD meter data or other methods of estimation are not available to determine the consumptive use of water due to livestock, human water use, sandpits and reservoirs less than 15 AF, the NeDNR will be responsible for tracking and reporting on the following activities within the District in the current increment:

- National Agricultural Statistics Service livestock data
- US Census Bureau population data
- Inventory of sandpits
- Inventory of reservoirs of less than 15 AF
- Any necessary offsets provided for depletions resulting from increased consumptive use related to the above listed items

10.7.2 Reporting

An annual review of the progress being made toward achieving the goals and objectives of the ten-year increment will include annual reporting by the NeDNR and the TPNRD of the information being tracked as described above.

Data will be analyzed to assess the collective amount, timing, and locations of the depletions to streamflows resulting from new or expanded uses and of all mitigations. This will involve a simple analysis of impacts to streamflows resulting from permitted changes, which will not require model runs. These analyses will be done using the agreed upon methods and tools. Methods and tools used will be available to the stakeholders and the public. This information will be shared between the TPNRD and the NeDNR, presented at the Basin-Wide Annual Meeting. The data collected will then be trimmed to the relevant PRRIP area, analyzed, and used for required annual and periodic reporting for the NNDP, helping facilitate Nebraska's compliance with the NNDP.

The reports from the TPNRD and the NeDNR should include information on the location, amount and timing of the depletions caused by each permitted new or expanded water use, as well as the associated offset and the location, amount and timing of the offset's accretions to the river. The depletions and/or the accretions should be reported for each year throughout the ten-year increment.

These reports should be made available at least four weeks prior to each Basin-Wide Annual Meeting. The format of the reports will be standardized as agreed to by the NeDNR and the Upper Platte River Basin NRDs.

The reported information will be used as appropriate in the evaluation process as described below. Data from the NeDNR and TPNRD annual reports will be used to prepare reports to the Governance Committee of the PRRIP on status and activities

related to the NNDP. The NeDNR will generate these reports and will coordinate with the District to ensure the accuracy of data within any final report.

10.7.3 Evaluation: Measuring the Success of Meeting the Goals and Objectives of this IMP

Measuring the success of this IMP in addressing streamflow depletions due to new uses begun subsequent to July 1, 1997.

10.7.3.1 Annual Review

In order to meet the requirements of *Neb. Rev. Stat. § 46-715(5)(d)(ii)*, the data contained in the annual reports submitted by the TPNRD and the NeDNR will be reviewed and analyzed annually to assess the progress being made toward achieving the goals and objectives of Chapter 9 of this IMP for the current ten-year increment. The annual review will consider both the near-term and long-term effects of any permitted new consumptive uses. A 50-year stream depletion curve, based on the COHYST 2010 stream depletion analysis, may be used to assess the impacts of any new uses contained within the annual reports to show the long-term potential impacts of annual changes.

10.7.3.2 Robust Review

In addition to the annual review, a more robust review of the progress being made toward achieving the goals and objectives of Chapter 9 of this IMP for the current ten-year increment will be carried out periodically. This analysis will be developed to meet the requirements of reporting for the NNDP as well as *Neb. Rev. Stat. § 46-715(5)(d)(iii)* to determine whether the measures adopted in this IMP are sufficient to offset depletions due to post-July 1, 1997, water uses and sustain progress toward a fully appropriated level of water use. A Robust Review will be conducted in 2023 and 2027. The purpose of these Robust Reviews will be to address the indicator and triggers outlined in Section 10.6.2 of this IMP, which helps measure progress toward reaching the targets from Chapter 9. The process for this review is described below. The previous Robust Review will also serve as guidance for conducting the next one.

The general method for conducting the Robust Review will be as follows:

- A. The groundwater models used for this process will be calibrated to streamflows/baseflows and groundwater levels in the area with the ability to assess the impacts on a monthly basis. The groundwater models will be updated periodically to simulate the management practices that have been implemented to date. The evaluation period of these models will be 50 years into the future.
- B. The following groundwater model runs will be conducted to measure the success toward reaching Objective 1.1:

1. The 1997 Development Level Run

A model run that simulates holding the number of irrigated acres and crop types or mix in 1997 constant through the current date and the fifty-year projection period. Unless better data is available, to estimate 1997 levels of consumptive use, it will assume the full crop irrigation requirement for the crop types or mix. The run will be conducted using climate data through the current date and will include a fifty-year projection using an agreed to climate pattern.

2. The Historical Run

A model run that simulates the actual annual changes of the irrigated acres, excess flow recharge events, retirements, allocation effects, augmentation projects, and other water management regulations or projects throughout the evaluation period starting in 1997 through the current date and the fifty-year projection period. The fifty-year projection period will repeat an agreed to land use, regulation, or project dataset. The model will use available flow meter data or, in the absence of flow meter data, assume the full crop irrigation requirement was met at all times. The run will be conducted using data through the current date and will include a fifty-year projection using an agreed to climate pattern.

3. Difference Between the 1997 Development Level Run and the Historical Run

The simulated output from each model run will be compared to determine the difference in the baseflow that has resulted from post-1997 development. Effects on streamflows from combination of allocations and landuse changes are reflected in this comparison because both meter data and landuse changes are used to determine groundwater pumping.

4. Other Management Actions Analyses Not Covered by the Models

If other management actions are taken to offset streamflow depletions due to new uses begun subsequent to July 1, 1997, accretions resulting from those retirements will be determined using agreed upon methodologies. This would include conjunctive management activities that are not otherwise captured in the models.

5. Evaluation Results

For Objective 1.1 to be considered achieved, the results of combining the difference between the 1997 Development Level Run and the Historical Run with the addition of management action accretions not covered by the models must be greater than or equal to zero.

$$(Q_h - Q_d) + (S_a) = D_{net}$$

Where:

Q_h = Simulated streamflow/baseflow from the Historical Run

Q_d = Simulated streamflow/baseflow from the 1997 Development Level Run

S_a = Other Management Action Accretions

D_{net} = Net Depletions

Note: In equation above, streamflow/baseflow is positive

- C. An additional groundwater model run will be conducted to measure total depletions. This will be the Pre-Development Run. The Pre-Development Run will compare the Historical Model Run with a simulation of no groundwater development to determine the total depletions associated with all groundwater only land use development. The run will be conducted using climate data through the current date and will include a fifty-year projection using the Historical Run’s agreed-to climate pattern.

1. Total Depletions Evaluation

$$(Q_h - Q_p) = D_t$$

Where:

Q_h = Simulated streamflow/baseflow from the Historical Run

Q_p = Simulated streamflow/baseflow from the Pre-Development Level Run

D_t = Total Depletions

Note: In equation above, streamflow/baseflow is positive

- D. If integrated models are used to assess impacts to the total streamflow, the methods to be used will be developed jointly between the NeDNR and the Upper Platte River Basin NRDs to properly design and constrain

those analyses so that the results can be used to assess progress toward the goals and objectives of the plan.

- E. Municipal, Industrial, Domestic and Livestock use will be evaluated as part of the Robust Review
 1. Data will continue to be collected on the water use of municipalities and industries within the basin.
 - a. Gather information on total pumping, consumptive use, and timing of any return flows and collect data on water use efficiency and conservation methods being employed.

10.7.4 Evaluation: Measuring the Success of Reaching a Fully Appropriated Condition

A technical analysis to support and evaluate effectiveness of this IMP and adequacy in sustaining progress toward a fully appropriated level of water use must be conducted.

Because a fully appropriated condition is not currently determined, the NeDNR and the TPNRD will continue to work on outlining the process that will measure the success of reaching the fully appropriated condition once that condition has been determined. The NeDNR and TPNRD will continue to refine the methodology used to determine the difference between the current and fully appropriated levels of development in each Upper Platte River Basin NRD.

The evaluation of the difference between current and fully appropriated levels of development is tied to statute and the current rules of the NeDNR for declaring a basin fully appropriated. Statute requires that this evaluation will:

- Take into account cyclical supply, including drought
- Identify the portion of the overall difference that is due to conservation measures
- Identify the portion of the overall difference that is due to water use initiated prior to July 1, 1997
- Identify the portion of the overall difference that is due to water use initiated or expanded on or after July 1, 1997

The current NeDNR rules for determining fully appropriated status include evaluation of the most junior appropriator's access to water, adjustments for lag effect of groundwater depletions and accretions on water supplies, and consideration of instream flows, among other guidance for conducting the analysis. The rules also provide flexibility for the NeDNR to "utilize a standard of interference appropriate for the use, taking into account the purpose for which the appropriation

was granted...¹⁹ for uses which are not defined in the rule. These include storage and hydropower appropriations, which are significant appropriators in the Upper Platte River Basin. The NeDNR and the Upper Platte River Basin NRDs have and will continue to work with impacted water users on the process for determining the difference between the current and fully appropriated condition of the basin.

The assessment of total depletions and the INSIGHT analysis of supplies and demands are examples of approaches that may be used to assist in this evaluation.

10.7.5 Evaluation: Measuring the Success of Maintaining a Fully Appropriated Condition

Because a fully appropriated condition is not currently determined, the NeDNR and the TPNRD will work on outlining the process that will measure the success of maintaining a fully appropriated condition once that condition has been determined. If during this increment it is determined that a fully appropriated condition has been reached, the TPNRD and NeDNR will continue to monitor the actions taken in this IMP to ensure that all goals and objectives are maintained.

10.7.6 Evaluating the Need for a Subsequent Increment

The NeDNR and the TPNRD will carry out the studies and the technical analysis as specified in *Neb. Rev. Stat. § 46-715(4)(d)(iii)* to determine whether or not a subsequent ten-year increment is necessary. This will include a process to test the validity of the conclusions and information upon which this IMP is based, as required by *Neb. Rev. Stat. § 46-715(2)(e)*.

Within the current ten-year increment, the NeDNR and the TPNRD will continue to refine the estimation methodology used to calculate the difference between the current and fully appropriated levels of development in accordance with *Neb. Rev. Stat. § 46-715(4)(c)*. Fully appropriated levels of development will be determined through the following process:

- A. Determine the changes in recharge from surface water diversions and the impacts of those changes on streamflow using readily available data.
- B. Determine the changes in groundwater irrigation, municipal, industrial, domestic, livestock and other uses and the streamflow depletions caused by those changes using readily available data.
- C. Determine the effects of conservation measures on streamflows.
- D. Determine the timing and location of the net changes in streamflow.

¹⁹ *Department of Natural Resources Rules for Surface Water, Title 457 Neb. Admin. Code, Chapter 24, § 001.01B*

- E. Determine when streamflow changes impact existing users, taking into account the effects of cyclical supply (e.g. drought).
- F. The NeDNR and the TPNRD will review other data and/or methodologies relevant or significant to the process.

The process described above in Section 10.7 will focus on uses initiated prior to July 1, 1997, and their impacts on hydrologically connected streamflows. All uses initiated subsequent to July 1, 1997, will be evaluated using the process described in Section 10.7.3.

10.8 Studies to be Completed in the Current Increment

10.8.1 Priority Studies

The Basin-Wide Plan calls for several studies and collection of information within the basin. Those studies and information are also critical to the successful implementation of this IMP. The studies include:

- Collect data on commingled acres to identify, quantify, and proportion the source and quantity of water used on acres irrigated with both surface water and groundwater. Gather data on water use on such lands (both why and when irrigators use surface water or groundwater).
- Conduct a study that identifies water users that are affected during cyclical variations in water supply. This hydrologic element analysis will be conducted by the NeDNR and the Upper Platte River Basin NRDs by evaluating data such as stream gage and diversion records, and well hydrograph data. Focused surveys of, as well as meetings with basin water users can be used to build on stakeholder input gathered throughout the planning process. Once impacted water users who are hydrologically affected by water supply variability are identified, economic impacts can be estimated.
- The NeDNR and the Upper Platte River Basin NRDs will collaborate with impacted water users and other entities to gather relevant economic data. Potential partners include economists and other subject matter experts familiar with the economic drivers of the basin who can help identify data needs and formulate the tools and methodologies for assessing economic impacts. The tools and methodologies will be used to not only evaluate impacts of supply variability, but also evaluate human-made depletion impacts, management actions, regulatory actions, and potential projects or other activities considered during implementation that may affect water availability.
- Study economic impacts of drought, which will be a component of the drought plan.

- Study potential for developing markets and transfer protocols for annual surface water and groundwater supplies.
- Study management options of storage water (both surface water reservoirs and aquifer storage, including existing and potential new storage) to provide flexibility and increase resiliency of water supplies.

10.8.2 Potential Studies

There are many other factors that have the ability to impact streamflows. It is important to investigate these things to assess their potential effectiveness in achieving the goals and objectives of this IMP and identify new potential management actions. Pursuit of these studies will be contingent upon budget and staff resources.

The following potential studies have been identified by the NeDNR and the TPNRD:

- Crop rotation
- Vegetation management
- Irrigation scheduling
- Survey of the type and location of irrigation systems throughout the District
- Tillage practices
- Other best management practices
- Conjunctive management – continue to investigate effects of projects within the District and look for new opportunities
- Water budget analysis
- Invasive species
- Conservation measures – continue to investigate the effects of the implementation of these measures and their level of use within the TPNRD

10.9 Review of and Modification of the IMP

10.9.1 IMP Revisions

During implementation of the IMPs, the NeDNR and the Upper Platte River Basin NRDs will monitor IMP actions consistent with the analyses and methods contained in the Basin-Wide Plan and amend the IMP if activities are determined by the parties to not be capable of meeting goals. If the NeDNR and an Upper Platte River Basin NRD determine that management actions have not provided or maintained the offsets required to meet the goals of the Basin-Wide Plan, they will agree to increase offset activities to the extent possible and revise the individual NRD's IMP if necessary. These revisions may include additional controls to meet goals of the IMP.

- A. The TPNRD and the NeDNR will jointly determine whether amendments to this IMP are necessary. Any proposed modifications will be discussed at the Basin-Wide Annual Meeting. Situations that may prompt revision or modification of this IMP are described below.
 1. The TPNRD and the NeDNR may amend this IMP after the annual review of progress being made toward achieving the goals and objectives of Chapter 9 of this IMP.
 2. If the Robust Review indicates annual depletion or accretion values different from those in Goal 1 Table 1, revisions may be necessary. For example, the IMP may be revised to attach the results of a future Robust Review including updated targets and triggers.
 3. The NeDNR and the TPNRD may amend this IMP as more data and information become available, as provided in *Neb. Rev. Stat. § 46-715(5)(d)(ii)*.
 4. If the Basin-Wide Plan is revised and therefore this IMP needs to be revised for consistency, this IMP will be revised in accordance with *Neb. Rev. Stat. § 46-715(5)*.
- B. An advisory or stakeholder group may be convened for input on proposed IMP changes, at the discretion of the TPNRD and the NeDNR.
- C. If the TPNRD and the NeDNR agree on revisions to this IMP, then a hearing will be held to solicit formal comment. Revisions to this IMP shall be provided to all other Upper Platte River Basin NRDs in the overappropriated basin for comment before revisions are approved.

10.9.2 Basin-Wide Plan Disputes

- A. If a dispute is presented at the annual meeting as described in the Basin-Wide Plan, the Upper Platte River Basin NRDs and the NeDNR will determine whether or not the dispute has hydrologic impact. If it is determined that the dispute does have hydrologic impact, then the Upper Platte River Basin NRDs and the NeDNR will determine whether the dispute pertains to all of the Upper Platte River Basin NRDs or just to individual Upper Platte River Basin NRD(s).
- B. If the dispute pertains to all of the Upper Platte River Basin NRDs, the Upper Platte River Basin NRDs will conduct an investigation and the NeDNR to determine what management actions will address the dispute(s) in the Basin-Wide Plan and/or the IMPs. If the management action pertains to this IMP, it will be revised accordingly.
- C. If the dispute is not a basin-wide issue, but pertains to the TPNRD, the NeDNR, the TPNRD, and any other affected Upper Platte River Basin NRD(s),

working with the affected water user(s), shall develop management solutions as appropriate to address the issue(s).

D. Disputes related to the implementation of the IMP will also be discussed.

10.9.3 Additional Ten-Year Increment

Based on the results of the technical analyses described in Section 10.7.3, the TPNRD and the NeDNR will evaluate the need for a subsequent increment. This includes determining whether post-July 1, 1997, depletions have been offset and the progress made toward achieving a fully appropriated condition or maintaining such a condition.

If it is determined from these technical analyses that a subsequent ten-year increment is needed to meet the goals and objectives of this IMP, then pursuant to *Neb. Rev. Stat. § 46-715(5)(d)(iv)*, the goals and objectives for the subsequent ten-year increment will be developed using the consultative and collaborative process described in *Neb. Rev. Stat. § 46-715(5)(b)*. The subsequent ten-year increment IMP shall be completed, adopted, and take effect not more than ten years after adoption of this IMP.

The NeDNR and the individual Upper Platte River Basin NRDs will engage stakeholders in a collaborative process in the development of goals and objectives for a subsequent increment of the individual IMPs if necessary. The need for a subsequent increment will be determined through the Robust Review process completed at the end of the second increment and described in Section 10.7.3. Should a subsequent increment be necessary, the planning process will be initiated by the NeDNR and each Upper Platte River Basin NRD developing a public participation plan that outlines the stakeholder engagement process for the NRD's IMP, including identification of participants/parties, definition of roles, decision making protocols, planning processes, and timelines. This public participation plan serves as a reference guide for participants as well as the public throughout the planning process. This effort is analogous to the basin-wide collaborative process described in the Basin-Wide Plan, but focused on the individual Upper Platte River Basin NRD stakeholder collaboration. The public participation plan developed for the second increment Basin-Wide Plan can be found as an appendix to the *Second Increment Basin-Wide Plan for Joint Integrated Water Resources Management of Overappropriated Portions of the Platte River Basin, Nebraska*.

Appendix A:
Glossary of Terms

Glossary of Terms

Twin Platte Natural Resources District IMP

Term	Definition
28/40 Area	The area within the North Platte, South Platte, or Platte River watershed in which groundwater intentionally withdrawn for 40 years will result in a cumulative stream depletion to the North Platte, South Platte, or Platte River or a baseflow tributary greater than or equal to 28 percent of the total groundwater consumed as a result of the withdrawals
Accretion	Addition to streamflow that results from an offset/mitigation action or project.
Acre-foot (AF)	Volume of water required to cover one acre of land to a depth of one foot (43,560 cubic feet), equivalent to 325,851 gallons.
Action Item	A specific task that the NRD or NeDNR (or both) will undertake to achieve the goals and objectives of the Integrated Management Plan.
Appropriation	A permit granted by NeDNR to use surface water for a beneficial use in a specific amount, purpose, and location, and is based on first-in-time, first-in-right.
Aquifer	A geological formation or structure of permeable rock or unconsolidated materials that stores and/or transmits water, such as to wells and springs.
Basin-Wide Plan	Following <i>Nebraska Revised Statute § 46-715</i> , a Basin-Wide Plan is required to be developed for areas designated as overappropriated. Overall, basin-wide plans provide a more general framework than IMPs, focusing on regional, cross-boundary issues and opportunities such as those related to hydrologic connectivity and management strategies that cross the NRDs' borders.
Beneficial Use	That use by which water may be put to use to the benefit of humans or other species.
Certified Acres	Lands identified and registered with the District greater than one acre which has water applied for irrigation.

COHYST	Originally developed in 1998 as part of COHYST (the Cooperative Hydrology Study), the COHYST 2010 Model and Western Water Use Management (WWUM) Model were later split into separate models because the geology, climate, and land management of the central portion of the state were determined to be significantly different from those of the western reaches of the state. The COHYST 2010 Model includes a portion of the Platte River Basin, extending westward from Chapman to the upstream end of Lake McConaughy. While the original COHYST model was initially focused only on groundwater modeling, the COHYST 2010 Model now also takes surface water into account. The final model includes a surface water operations model, a groundwater flow model, and a soil-water balance model.
Conjunctive Management	The coordinated and combined process that utilizes the connection between surface and groundwater to maximize water use, while minimizing impacts to streamflow and groundwater levels in an effort to increase the overall water supply of a region and improve the reliability of that supply.
Consumptive Use	The amount of water that is consumed under efficient practices, which satisfies the appropriation without waste. The amount of water removed from available supplies without return to a water resources system.
CREP	Conservation Reserve Enhancement Program in Nebraska is a voluntary program through the US Department of Agriculture and the State of Nebraska, to reduce irrigation water use, replenish streams, rivers, and reservoirs, improve water quality and enhance wildlife habitat through the establishment of vegetative cover.
Department	The Nebraska Department of Natural Resources (NeDNR) a State agency that has the authority over surface water, floodplain management, dam safety, and providing data and analyses needed to make wise resource decisions.
Depletion	Reduction to streamflow that results from a new use of either groundwater or surface water.
District	The Twin Platte Natural Resources District (TPNRD). A political subdivision of the State responsible for protection and management of the natural resources within the boundaries of the district.

EQIP	The Environmental Quality Incentives Program is a voluntary program through the Natural Resources Conservation Service (NRCS) that provides agricultural producers with financial resources to plan and implement improvements, or conservation practices to improve air and water quality, healthier soil, and better wildlife habitat, all while improving agricultural operations.
Fully Appropriated	From <i>Nebraska Revised Statute</i> § 46-713, subsection (3): A river basin, subbasin, or reach shall be deemed fully appropriated if NeDNR determines based upon its evaluation conducted pursuant to subsection (1) of this section and information presented at the hearing pursuant to subsection (4) of section 46-714 that then current uses of hydrologically connected surface water and ground water in the river basin, subbasin, or reach cause or will in the reasonably foreseeable future cause (a) the surface water supply to be insufficient to sustain over the long term the beneficial or useful purposes for which existing natural-flow or storage appropriations were granted and the beneficial or useful purposes for which, at the time of approval, any existing instream appropriation was granted, (b) the streamflow to be insufficient to sustain over the long term the beneficial uses from wells constructed in aquifers dependent on recharge from the river or stream involved, or (c) reduction in the flow of a river or stream sufficient to cause noncompliance by Nebraska with an interstate compact or decree, other formal state contract or agreement, or applicable state or federal laws.
Goal	A general statement of broad direction or intent with no time line.
Groundwater	Water which occurs in or moves, seeps, filters, or percolates through ground under the surface of the land, and shall include groundwater which becomes commingled with waters from surface sources.
Hydrologically Connected	A geographic area where groundwater and surface water are interconnected and withdrawals of one source may influence the availability of the other. In <i>Nebraska Revised Statutes</i> , hydrologically connected waters are those where deep well pumpage over a 50-year period will deplete stream flows by 10 percent of the amount pumped over that time.

INSIGHT	Developed and maintained by NeDNR, INSIGHT stands for an Integrated Network of Scientific Information and GeoHydrologic Tools. The purpose of INSIGHT is to provide an annual snapshot of water conditions across the state. Hydrologic data are consolidated from several different sources, including the NeDNR, U.S. Geological Survey, U.S. Bureau of Reclamation, and local natural resources districts and presented in charts for the following categories: water supplies, water demands, nature and extent of use, and water balance. These data are presented in a consistent format and become more local as the user drills down from the statewide level to the basin-wide and subbasin levels using the database interface.
Instream Use	Water that is appropriated for use within the stream and is not withdrawn from a surface water source.
Integrated Management Plan (IMP)	A plan cooperatively developed by NeDNR and an NRD for the purpose of managing a river basin, subbasin, or reach to achieve and sustain a balance between groundwater and surface water uses and water supplies for the long term.
Irrigation	The artificial application of water to promote the growth of vegetation.
Irrigation Well	A well that provides water for purposes of irrigation for more than two acres of crops and other plants.
LB 962	A bill passed by Nebraska Legislature in 2004 that allows leases of surface water, changes administration of surface water rights, establishes a proactive approach to the integrated management of hydrologically connected groundwater and surface water, and creates funds to direct money toward data gathering, research, conservation, and implementation of integrated management plans in fully and overappropriated basins.
Moratorium	A legally authorized suspension of drilling of groundwater wells or approval of new surface water appropriations.
NeDNR	The Nebraska Department of Natural Resources (NeDNR) a State agency that has the authority over surface water, floodplain management, dam safety, and providing data and analyses needed to make wise resource decisions.
NET	Nebraska Environmental Trust was established to conserve, enhance, and restore the natural environments of Nebraska, by funding projects that leverage private investment in conservation and emphasize long-lasting results.

NNDP	Nebraska New Depletions Plan. The plan, in accordance with PRRIP, describes the actions taken to prevent or mitigate for new depletions to target streamflows, to the extent those new depletions are caused by uses begun or expanded on or after July 1, 1997. Responsibility for implementing the plan is shared between the State of Nebraska and the Platte River Natural Resources Districts.
Objective	A statement that defines a specific outcome that a group seeks to accomplish in working toward a goal.
Offset	A reduction in water use that corresponds with an increased use of water. An offset may be used as a management strategy to balance uses and supplies. The offset will have a corresponding amount, time, and location. Also referred to as mitigation.
Overappropriated	From <i>Nebraska Revised Statute § 46-713 (4)(a)</i> : A river basin, subbasin, or reach shall be deemed overappropriated if, on July 16, 2004, the river basin, subbasin, or reach is subject to an interstate cooperative agreement among three or more states and if, prior to such date, the NeDNR has declared a moratorium on the issuance of new surface water appropriations in such river basin, subbasin, or reach and has requested each natural resources district with jurisdiction in the affected area in such river basin, subbasin, or reach either (i) to close or to continue in effect a previously adopted closure of all or part of such river basin, subbasin, or reach to the issuance of additional water well permits in accordance with subdivision (1)(k) of section 46-656.25 as such section existed prior to July 16, 2004, or (ii) to temporarily suspend or to continue in effect a temporary suspension, previously adopted pursuant to section 46-656.28 as such section existed prior to July 16, 2004, on the drilling of new water wells in all or part of such river basin, subbasin, or reach.
PBC	Platte Basin Coalition (or Coalition) is a interlocal cooperation agreement among Upper Platte River Basin NRDs and NeDNR to meet the terms of PRRIP, requirements of the Groundwater Management and Protection Act, and the provisions in the IMPs and the Basin-Wide Plan by obtaining funding for projects to study, develop, and implement management actions to reduce consumptive uses of water.

PRRIP	Platte River Recovery Implementation Program. Developed by the federal government along with basin states of Nebraska, Colorado, and Wyoming and signed in 2006. Local, state and federal government agencies work with groups across the basin to build a framework for a long-term program that will satisfy Endangered Species Act requirements for water users in the basin. The primary focus of PRRIP is to enhance, restore, and protect habitat lands for the endangered whooping crane, interior least tern, pallid sturgeon, and the threatened piping plover.
Recharge	A hydrologic process where water moves downward from surface water to ground water, both naturally through the hydrologic cycle or through intentional practices.
Stakeholder Advisory Committee	Representatives of various interest groups and professional fields who provided comments and suggestions on various aspects of the Integrated Management Plan.
Storage	The capture and holding of water in above-ground man-made structures, or below ground in geologic strata for subsequent use for various purposes.
Streamflow	The discharge that occurs in a natural channel of a surface stream course.
Surface Water	Water which occurs or moves on the surface of the planet such as in a stream, river, lake, wetland, or ocean.
Transfer	To allow for the historic consumptive use of water to be changed, in location and/or purpose without causing an increase in depletions to the river or an impact to existing surface water or groundwater uses.
Use	The legally accepted use of a well or water appropriation.
Variance	To allow an exception to the stay on new irrigated acres and new consumptive uses while providing adequate mitigations or transfers to assure that there is no net increase in depletions to the river or impacts to existing surface water or groundwater uses; any request that is contrary to existing rules or regulations will require a variance. Any person wanting to apply for a new surface water appropriation within a moratorium or stay area must file a variance petition with NeDNR requesting leave to file an application.
Water Bank	A mechanism used to facilitate the transfer of water between parties, often using market-driven transactions. Water banks can be institutional, physical, or mixtures of both.

WWUM	Western Water Use Management Model assists NeDNR and NRDs with meeting the objectives of local integrated management plans and the Platte River Recovery Implementation Program by assessing the impact of water uses and management practices on long-term water supplies.
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Appendix B:

Exchange Letters Between TPNRD and NeDNR



TWIN PLATTE NATURAL RESOURCES DISTRICT

January 25, 2018

Mr. Jeff Fassett, Director
Nebraska Department of Natural Resources
301 Centennial Mall South
PO Box 94676
Lincoln, NE 68509-4676

RE: Initiation of Twin Platte Natural Resources District second 10-year increment integrated management plan

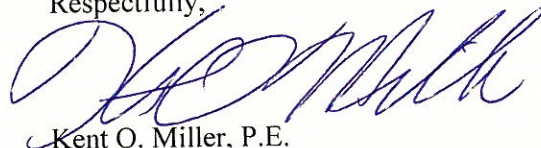
Dear Director Fassett:

This letter is to confirm that the Twin Platte Natural Resources District (TPNRD) and the Department of Natural Resources (NeDNR) have jointly determined that the development of a second 10-year increment integrated management plan (IMP) for TPNRD is necessary. In accordance with *Nebraska Revised Statutes* §§ 46-715 through 46-718, the second increment IMP will be developed using a consultative and collaborative process to identify IMP goals and objectives. Following adoption of the first increment IMP in 2009, TPNRD and NeDNR have made collaborative efforts to implement the goals and objectives set forth in the IMP and have met regularly to review progress. The development of a second increment IMP will allow further progress to be made toward meeting the IMP's goals and objectives pursuant to *Neb. Rev. Stat.* §46-715(2) and to reduce the overall difference between the current and fully appropriated levels of development identified in *Neb. Rev. Stat.* §46-715(5)(c).

As you are aware, work on the development of the Upper Platte River Basin's second increment basin-wide plan will be winding down in 2018, allowing for the Upper Platte NRDs and NeDNR to direct their time and attention to the development of second increment individual NRD IMPs. By initiating the planning and development process for TPNRD's individual IMP now, partners will benefit from having knowledge of the second increment basin-wide plan's proposed goals and objectives, thereby maintain consistency between the two plans; as well as a concurrent plan development schedule.

TPNRD would like to meet with your staff in the coming weeks in order to discuss a project timeline and whether or not we would like to consider hiring outside assistance for coordination and/or facilitation tasks associated with the development of the individual IMP. Ann Dimmitt will be the TPNRD staff contact leading coordination of the individual IMP development. You may reach her at 308.535.8080 and adimmitt@tpnrd.org. Please work with Ann in scheduling a suitable date and time to discuss this matter.

Respectfully,



Kent O. Miller, P.E.

General Manager

Twin Platte Natural Resources District

NEBRASKA

Good Life. Great Water.

DEPT. OF NATURAL RESOURCES



Pete Ricketts, Governor

February 12, 2018

Kent O. Miller
General Manager
Twin Platte NRD
PO Box 1347
North Platte, NE 69103

Dear Mr. Miller: ^{Kent}

The Nebraska Department of Natural Resources (Department) is pleased to receive the Twin Platte Natural Resources District's (District) January 25, 2018 letter to initiate the second 10-year increment integrated management plan per *Nebraska Revised Statutes* §§ 46-715 through 46-718.

Jennifer Schellpeper, of the Department, will be in touch with your District IMP contact person, Ann Dimmitt, to discuss the project timeline and whether to consider hiring outside assistance for coordination and/or facilitation.

We look forward to continued work on the integrated management plans and in furthering the effective working relationship between the District and the Department.

Sincerely,

Jeff

Gordon W. "Jeff" Fassett
Director

Gordon W. "Jeff" Fassett, P.E., Director

Department of Natural Resources

301 Centennial Mall South
P.O. Box 94676
Lincoln, Nebraska 68509

OFFICE 402-471-2363
FAX 402-471-2900

dnr.nebraska.gov

Appendix C:

Stakeholder Advisory Committee Process,
Members, and Meeting Dates

Stakeholder Advisory Committee Process, Members, and Meeting Dates

Public Involvement

Public involvement during the Twin Platte Natural Resources District's Second Increment Integrated Management Plan development process was designed to encompass broad stakeholder values, interests, future needs and priorities, and raise awareness to encourage broad community support for water quantity management within the District and Basin.

The Stakeholder Advisory Committee was formed through local solicitations and nominations. The District and the Department sent out letters to individuals who were nominated as potential members of the Advisory Committee through District contacts. Sixteen interested individuals contacted the District and were appointed to the Stakeholder Advisory Committee. The 16-member Stakeholder Advisory Committee included diverse representation from agriculture, irrigation districts, well drillers, public power producers, industry/business, environmental groups, and municipalities.

Meeting Topics

The main plan development consisted of stakeholder meetings which were open to the public. During stakeholder meetings numerous concepts and topics were discussed, but certain topics were repeatedly discussed by stakeholders across meetings that led to Plan goals, objectives, and action items. To the extent possible, these ideas have been grouped and are listed below in alphabetical order.

- Continue to enhance groundwater modeling
- Economic viability of the TPNRD
- Education
- Effects to stream-flow from on-farm efficiency
- Equitability among users
- Keeping current progress made
- Keeping allocations separate
- Upstream and downstream partnerships
- Water sustainability

Members of the Stakeholder Advisory Committee

At the end of plan development, the Stakeholder Advisory Committee had 16 members, whose names and affiliations are listed below.

Name	Affiliation
Chris Holley	City of North Platte
Dave Steffes	Irrigation Districts
Daran Rudnick	University of Nebraska
Toney Krajewski	County Commissioners
Mike Drain	Central Nebraska Public Power &
Jeff Shafer	Nebraska Public Power & Irrigation
Leland Poppe	Financial Institutions
Ted Klug	Financial Institutions
Mike Wheeler	Well Drillers
Page Peterson	Ground Water Users
Roric Paulman	Ground Water Users
Lane Anderson	Recreation
Keegan	Producer
Adam Kester	Nebraska Game and Parks
Levi Fisher	Business
Randy McNit	Business

In addition to the Stakeholder Advisory Committee meetings, NeDNR and the TPNRD held coordination meetings to plan stakeholder meetings. Meeting dates are listed below.

Stakeholder Advisory Committee Meetings	Coordination Meetings
	March 30, 2018
	April 3, 2018
	April 26, 2018
	May 7, 2018
	May 22, 2018
June 5, 2018	
	June 11, 2018
	July 2, 2018
	July 16, 2018
	August 6, 2018
August 14, 2018	
	August 24, 2018
	September 5, 2018
	September 10, 2018
September 19, 2018	
	October 2, 2018

	October 29, 2018
	November 9, 2018
November 13, 2018	
	November 16, 2018
February 26, 2019	

Appendix D:

Order Declaring Formal Moratoriums in the
Matter of the Platte River Basin above the Mouth
of the Loup River, the North Platte River Basin,
and the South Platte River Basin, et al.

Dated July 14, 2004

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Platte River)
Basin, the North Platte River)
Basin, the South Platte River)
Basin, the Republican River) ORDER DECLARING FORMAL MORATORIUMS
Basin, the White River Basin,)
and the Hat Creek River Basin.)

This matter came on for consideration before the Director of the Department of Natural Resources in part because of the provisions of Section 53, subsection (4) of LB962 (2004 Nebraska Legislature) and in part because of the need to formalize actions previously taken by the Department relative to the issuance of additional appropriations in several river basins in the state. The Director FINDS:

1. On February 27, 1979, by a memorandum to staff, the Director of the Department of Water Resources (now the Department of Natural Resources) ordered staff to deny all applications for natural flow for consumptive purposes in the Lodgepole Creek basin. The memorandum states the action was taken because the Director did not believe the public interest was served by continued issuance of permits for natural flow and that the moratorium would avoid the additional State costs from the added administration and cancellation of permits in the future. Documents in the Department's records indicate that storage and storage use appropriations could still be considered and approved. Such action was to take effect immediately and remain in effect until further notice. Lodgepole Creek is a tributary to the South Platte River.
2. On December 13, 1979, the same Director of the Department of Water Resources issued another memorandum to staff directing them to deny all applications for the direct use of natural flow from Pumpkinseed Creek and tributaries for irrigation purposes. The memorandum states that applications for storage and applications to use stored water for irrigation purposes could be processed. The reason given for this action was public interest and that it would avoid additional state costs from added administration and cancellation work in future years. Pumpkinseed Creek is a tributary to the North Platte River.
3. On November 30, 1990, the Department declared a formal moratorium on the Niobrara River from the Nebraska-Wyoming state line downstream to the headgate of the Mirage Flats Canal. The moratorium included all applications to use natural flow for irrigation, storage, and other beneficial uses. The Order states that the Department shall not approve any applications for permits for new water appropriations on this stream reach while the moratorium remains in effect, and any interested person may petition the Department to reconsider the moratorium designation.

4. Through actions taken since approximately 1993, the Department of Natural Resources has effectively maintained other informal moratoriums through its discussions with possible applicants and through its orders regarding applications filed. The actions taken and the Department's policy have been as follows:
 - a. North Platte River and tributaries above Lake McConaughy. The Department has denied applications on the basis of a preliminary determination that there is insufficient unappropriated water. Applicants were given an opportunity to request a hearing to prove that unappropriated water was available. The basis for this preliminary determination was that in most years Lake McConaughy has not filled. This determination resulted in additional restrictions in the Pumpkinseed Creek area.
 - b. South Platte River and tributaries, North Platte River and tributaries below Lake McConaughy and Platte River and tributaries above Cozad Canal. The Department has denied applications that would reduce natural flow during the irrigation season on the basis of a preliminary determination that there is insufficient unappropriated water during the irrigation season. Applicants were given an opportunity to request a hearing to prove that unappropriated water was available. The basis for the preliminary determination was the fact that in most years the Department has closed appropriations that were junior to a 1927 water right for Thirty Mile Canal, and in many years for a 1894 water right for Cozad Canal.
 - c. Platte River and tributaries above the mouth of the Loup River. The Department has denied applications that would reduce the natural flow for the instream water appropriations that have a 1993 water right on the preliminary determination that there is insufficient unappropriated water for these water rights that have 1990 or 1993 priority dates. Applicants were given an opportunity to request a hearing to prove that unappropriated water was available.
 - d. White River Basin and Hat Creek Basins. Again, the Department has denied applications that would reduce the natural flow of the stream. The Department's preliminary determination was based on the total lack of flow existing in most locations of these basins and the number of old water rights that do not receive the full allotment allowed under their appropriations. Applicants were given opportunity to request a hearing to prove that unappropriated water was available.
5. No applications for permanent water rights in the Republican River Basin have been filed or granted since 1994. In discussions with possible applicants since then, Department staff discussed the need for showing the availability of unappropriated water. On May 19, 2003, the United States Supreme Court approved a final settlement


stipulation with Kansas and Colorado regarding the Republican River Compact. While that settlement does not specifically require that the Republican River Basin be made subject to a formal moratorium on the issuance of such rights, such a moratorium is consistent with that settlement and with Nebraska's required compliance with that Compact.

It is therefore CONCLUDED that it is in the public interest to declare an official moratorium on the issuance of new surface water appropriations for all of those areas described above for which the Department previously has not formally declared such a moratorium, that is the areas described in paragraphs Nos. 1, 2, 4 and 5 above. The Nebraska Constitution, Article XV, Section 6 states, "The right to divert unappropriated waters of every natural stream for beneficial use shall never be denied except when such denial is demanded by the public interest." By declaring the official moratorium the public is well served by notice of such intentions and requirements. Further, the public would not be well served by the continuance of granting permits where sufficient water is not available. This action would result in "paper water rights" that would cause additional costs to the taxpayer because of the costs of processing such applications, the costs of administering such applications, and the costs of canceling such appropriations in the future. However, there may be certain situations where the public interest would be served by allowing new water rights, and because of the type of project and/or its operation, if an applicant can show that unappropriated water is available. A process for allowing such action should be authorized.

It is therefore ORDERED that:

1. A moratorium on all new surface water appropriations is hereby declared for the following basins or subbasins in Nebraska:
 - a. The Republican River Basin, including all subbasins
 - b. The North Platte River Basin including all subbasins
 - c. The South Platte River Basin including all subbasins
 - d. The Platte River Basin above the mouth of the Loup River including all subbasins
 - e. The White River Basin including all subbasins
 - f. The Hat Creek Basin including all subbasins
2. Interested persons may petition the Department to reconsider the moratorium designation as it relates to a specific project. The petition for reconsideration must clearly state the basis for such request. For sufficient cause shown, the Director may re-examine the action imposed by this Order at any time.

DEPARTMENT OF NATURAL RESOURCES



Roger K. Patterson, Director

July 14, 2004

CERTIFICATE OF SERVICE

A copy of the foregoing ORDER DELARING FORMAL MORATORIUMS was mailed on July 14, 2004 to the following:

Lower Republican Natural Resources District P.O. 618 Alma, Nebraska 68920-0618	Beerline Canal Company R.R. 2, Box 15 Broadwater, Nebraska 69125
Middle Republican Natural Resources District P.O. Box 81 Curtis, Nebraska 69025-0081	Birdwood Irrigation District 25362 W. North River Road Hershey, Nebraska 69143
Upper Republican Natural Resources District P.O. Box 1140 Imperial, Nebraska 69033-1140	Blue Creek Irrigation District 5277 Road 197 Lewellen, Nebraska 69147
Tri-Basin Natural Resources District 1308-2 nd Street Holdrege, Nebraska 68949-2803	Bostwick Irrigation District P.O. Box 446 Red Cloud, Nebraska 68970-0446
Central Platte Natural Resources District 215 North Kaufman Avenue Grand Island, Nebraska 68803-4915	Bridgeport Irrigation District P.O. Box 1028 Bridgeport, Nebraska 69336-1028
Twin Platte Natural Resources District P.O. Box 1347 North Platte, Nebraska 69103-1347	Browns Creek Irrigation District P.O. Box 40 Broadwater, Nebraska 69125-0040
South Platte Natural Resources District P.O. Box 294 Sidney, Nebraska 69162-0294	Castle Rock Irrigation District P.O. Box 6 McGrew, Nebraska 69353-0006
North Platte Natural Resources District P.O. Box 36 Gering, Nebraska 69341	Central Irrigation District P.O. Box 497 Scottsbluff, Nebraska 69363
Upper Niobrara White Natural Resources District 430 East 2 nd Street Chadron, Nebraska 69337-2433	Central Nebraska Public Power and Irrigation District P.O. Box 740 Holdrege, Nebraska 68949-0740
Alliance Irrigation District P.O. Box 412 Bridgeport, Nebraska 69336-0412	Chimney Rock Irrigation District P.O. Box 398 Bayard, Nebraska 69334-0398
	Cody-Dillon Ditch Company 6396 North Splinter Road North Platte, Nebraska 69101
	Court House Rock Company HC 85 Box 156 Bridgeport, Nebraska 69336-9530

Cozad Ditch Company, Inc.
P.O. Box 286
Cozad, Nebraska 69130-0286

Empire Canal Company
C/o Tim Riggs
P.O. Box 69336
Bridgeport, Nebraska 69336

Enterprise Irrigation District
P.O. Box 1558
Scottsbluff, Nebraska 69361-1558

Farmers Irrigation District
1505 Second Avenue
Scottsbluff, Nebraska 69361

Frenchman-Cambridge Irrigation
District
P.O. Box 116
Cambridge, Nebraska 69022-0116

Frenchman Valley Irrigation
District
P.O. Box 297
Culbertson, Nebraska 69024

Gering Irrigation District
981 Rundell Road
Gering, Nebraska 69341

Gering-Ft. Laramie Irrigation
District
P.O. Box 69341-0541
Gering, Nebraska 69341

H & RW Irrigation District
P.O. Box 297
Culbertson, Nebraska 69024

Hooper Irrigation District
19576 Road 50
Lewellen, Nebraska 69147

Keith-Lincoln County Irrigation
District
P.O. Box 308
Sutherland, Nebraska 69165-0308

Lisco Irrigation District
15170 Hwy 26
Lisco, Nebraska 69148-8827

Midland-Overland Canal Company
18920 Hwy 26
Oshkosh, Nebraska 69154

Minatare Mutual Canal and
Irrigation Company
P.O. Box 367
Minatare, Nebraska 69356

Mitchell Irrigation District
120322 County Road F
Mitchell, Nebraska 69357

Nebraska Public Power District
P.O. Box 499
Columbus, Nebraska 68602-0499

Nine Mile Irrigation District
P.O. Box 597
Bayard, Nebraska 69334-0597

Northport Irrigation District
RR 1 Box 164
Bridgeport, Nebraska 69336-0535

Paisley Irrigation District
5277 Road 197
Lewellen, Nebraska 69147

Pathfinder Irrigation District
P.O. Box 338
Mitchell, Nebraska 69357

Paxton-Hershey Water Company
25751 West Suburban Road
Hershey, Nebraska 69143

Pioneer Irrigation District
RR 1 Box 44
Haigler, Nebraska 69030

Platte Valley Irrigation
District
P.O. Box 104
Hershey, Nebraska 69143

Riverside Irrigation Company
RR 3 Box 33
Culbertson, Nebraska 69024-9318

Short Line Irrigation District
P.O. Box 575
Bayard, Nebraska 69334-0575

Six Mile Ditch Company
P.O. Box 243
Gothenburg, Nebraska 69138

South Side Irrigation Company
P.O. Box 174
Cozad, Nebraska 69130-0174

Steamboat Irrigation District
180038 County Road 29
Gering, Nebraska 69341

Suburban Irrigation District
P.O. Box 885
North Platte, Nebraska 69103

Thirty Mile Canal Company
75885 Road 414
Cozad, Nebraska 69130

Twin Loups Irrigation Company
P.O. Box 98
Scotia, Nebraska 68875-0098

Twin Loups Reclamation District
P.O. Box 98
Scotia, Nebraska 68875-0098

Union Irrigation District
5277 Road 197
Lewellen, Nebraska 69147

Western Irrigation District
1351 Road West 40
Brule, Nebraska 69127

White River Irrigation District
P.O. Box 446
Crawford, Nebraska 69339

Whitney Irrigation District
P.O. Box 185
Whitney, Nebraska 69367

Winters Creek Canal Company
230710 Highland Road
Scottsbluff, Nebraska 69361

Appendix E:

Order Designating Overappropriated River Basins,
Subbasins, or Reaches, and Describing Hydrologically
Connected Geographic Area, in the Matter of the Platte
River Basin upstream of the Kearney Canal Diversion, the
North Platte River Basin, and the South Platte River Basin.

Dated September 15, 2004

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the) ORDER DESIGNATING
Platte River Basin upstream of) OVERAPPROPRIATED RIVER BASINS,
the Kearney Canal Diversion, the) SUBBASINS, OR REACHES, AND
North Platte River Basin, and) DESCRIBING HYDROLOGICALLY
the South Platte River Basin) CONNECTED GEOGRAPHIC AREA

This matter came on for consideration before the Director of the Department of Natural Resources (the "Department") pursuant to Section 53, subsection (4) of LB 962 (2004 Nebraska Legislature), codified at Neb. Rev. Stat. Section 46-713(4), which requires the Department to designate which river basins, subbasins, or reaches are overappropriated within sixty days after the operative date of that section. Furthermore, the designation shall include a description of the geographic area within which the Department has determined that surface water and ground water are hydrologically connected and the criteria used to make such determination.

Section 46-713(4)(a) provides as follows:

A river basin, subbasin, or reach shall be deemed overappropriated if, on July 16, 2004, the river basin, subbasin, or reach is subject to an interstate cooperative agreement among three or more states and if, prior to such date, the department has declared a moratorium on the issuance of new surface water appropriations in such river basin, subbasin, or reach and has requested each natural resources district with jurisdiction in the affected area in such river basin, subbasin, or reach either (i) to close or to continue in effect a previously adopted closure of all or part of such river basin, subbasin, or reach to the issuance of additional water well permits in accordance with subdivision (1)(k) of section 46-656.25 as such section existed prior to July 16, 2004, or (ii) to temporarily suspend or to continue in effect a temporary suspension, previously adopted pursuant to section 46-656.28 as such section existed prior to July 16, 2004, on the drilling of new water wells in all or part of such river basin, subbasin, or reach.

The Director FINDS:

1. In 1997, the States of Nebraska, Wyoming, and Colorado and the U.S. Department of the Interior signed the Cooperative Agreement for Platte River Research and Other Efforts Relating to Endangered Species Habitats Along the Central Platte River, Nebraska (the "Cooperative Agreement").
 - a. Pursuant to the Cooperative Agreement, Nebraska has prepared the Nebraska New Depletion Plan (the "New Depletion Plan"), a purpose of which is to describe the actions Nebraska proposes to take to prevent or mitigate for new depletions to the extent those new depletions are caused by new and expanded uses of water since the target date of July 1, 1997.

2.
 - a. On February 27, 1979, by a memorandum to staff, the Director of the Department of Water Resources (now the Department of Natural Resources) ordered staff to deny all applications for natural flow for consumptive purposes in the Lodgepole Creek basin.
 - b. On December 13, 1979, the same Director of the Department of Water Resources issued another memorandum to staff directing them to deny all applications for the direct use of natural flow from Pumpkinseed Creek and tributaries for irrigation purposes.
 - c. Through actions taken since approximately 1993, the Department of Natural Resources has effectively maintained other informal moratoriums through its discussions with possible applicants and through its orders regarding applications filed in the North Platte River and its tributaries, the South Platte River and its tributaries, and the Platte River and its tributaries above the mouth of the Loup River.
 - d. On July 14, 2004, the Department issued an Order Declaring Formal Moratorium on the issuance of new surface water appropriations in the Platte River Basin above the mouth of the Loup River, the North Platte River Basin, and the South Platte River Basin.
 - e. Numerous new wells have been registered with the Department since the Department stopped issuing surface water rights as described in this Section.
3. The Department has made written requests to each Natural Resources District ("NRD") with jurisdiction in the affected area, as follows:
 - a. By letter dated July 13, 2004, to Jim Olson, Chair of the North Platte NRD, the Department requested the North Platte NRD to continue in effect a previously adopted closure of the Pumpkin Creek integrated ground water management subarea to the issuance of additional water well permits and to continue in effect a previously adopted temporary suspension on the drilling of new water wells in the remainder of the Natural Resources District.
 - b. By letter dated July 13, 2004, to Alicia Haussler, Chair of the Central Platte NRD, the Department requested the Central Platte NRD to continue in effect a temporary suspension of well construction that took effect November 20, 2003 in a portion of the Natural Resources District, and to extend the temporary suspension to include all of the area the Department had preliminarily determined to be hydrologically connected to the overappropriated basin.

- c. By letter dated July 13, 2004, to Bradley Lundeen, Chair of the Tri-Basin NRD, the Department requested the Tri-Basin NRD to either close the geographic area the Department preliminarily determined to be hydrologically connected to the overappropriated basin, as identified on a map enclosed with the Department's letter, to the issuance of additional water well permits, or temporarily suspend the drilling of new water wells within that identified area.
 - d. By letter dated July 13, 2004, to Keith Rexroth, Chair of the South Platte NRD, the Department requested the South Platte NRD to continue in effect a previously adopted closure of the Lodgepole Creek integrated ground water management subarea to the issuance of additional water well permits and to continue in effect a previously adopted temporary suspension on the drilling of new water wells in the remainder of the Natural Resources District.
 - e. By letter dated July 13, 2004, to Jim Rubenthaler, Chair of the Twin Platte NRD, the Department requested the Twin Platte NRD to continue in effect a previously adopted temporary suspension of well construction in a portion of the Natural Resources District, and to extend the temporary suspension to include all of the area the Department had preliminarily determined to be hydrologically connected to the overappropriated basin, as identified on a map enclosed with the Department's letter.
4. Included with the Department's July 13, 2004 correspondence listed in Section 3 of this Order were maps identifying the portions of each of the Natural Resources Districts within which the Department was preliminarily considering the surface water and ground water to be hydrologically connected to the overappropriated basin.
 5. The criteria used to make the determination of hydrologically connected surface water and ground water for purposes of the overappropriated designation is as follows:
 - a. The area within which pumping of a well for 40 years will deplete the North Platte River, South Platte River, Platte River or a base flow tributary thereof by at least 28% of the amount pumped in that time (referred to as the "28/40 line"). The 28/40 line is also relevant for management purposes in terms of the Cooperative Agreement, which is one of the criteria on which the overappropriated designation rests. The New Depletion Plan prepared as a result of the Cooperative Agreement requires that the NRDs responsible for its implementation have groundwater management areas that cover all land area within the Platte River Basin and also the area within the 28/40 line.
 - b. To the extent not included as a result of the 28/40 line, any other land area that is within the North Platte NRD's current integrated ground water management subarea of the Pumpkin

Creek subbasin, or the South Platte NRD's current integrated ground water management subarea of the Lodgepole Creek subbasin. This criteria is relevant because the Cooperative Hydrology Study ("COHYST") Model, discussed below, does not have modeling for all parts of Nebraska. In areas not covered by COHYST, NRD information analysis relating to integrated management areas was relied upon in order to determine the areas to be considered hydrologically connected for the relevant management purposes.

6. The preliminary map sent on July 13th to each NRD was based on data from the United States Geological Survey's Regional Aquifer Study Assessment. In the July 13, 2004 letters to the NRDs, the Department reserved the ability to utilize data from the COHYST Model, when available, in making the final designation, as such data was anticipated to be the best data available.
7. The COHYST Model is now available. The Department has examined the results of the current COHYST Model's 28/40 line. The Department determines that the current COHYST Model is the best data available for purposes of obtaining the 28/40 line.
8. The Department held public information meetings and public hearings for the purpose of collecting evidence and testimony concerning the final determination of certain NRDs as "fully appropriated" in their entirety. The public hearings were held in North Platte on August 31, 2004, in Sidney on September 1, 2004, and in Kearney on September 9, 2004. Prior to each hearing, Department personnel indicated that testimony could be given during the hearing on the extent of the area within which the surface water and groundwater supplies for the river basin, subbasin or reach are determined to be hydrologically connected for purposes of the overappropriated designation. The Department duly considered such testimony and evidence produced at the hearings.

It is therefore CONCLUDED that it is in the public interest to designate the Platte River Basin above the Kearney Canal Diversion, the North Platte River Basin, and the South Platte River Basin as overappropriated, and to designate the area within which surface water and ground water are hydrologically connected for purposes of the overappropriated designations.

It is therefore ORDERED that:

1. The Platte River Basin above the Kearney Canal Diversion, the North Platte River Basin including Pumpkinseed Creek, and the South Platte River Basin including Lodgepole Creek are hereby designated as overappropriated.
2. Surface water and ground water are determined to be hydrologically connected for purposes of the overappropriated designations in the area within the 28/40 line, based on data from the COHYST Model. It is further ordered that each full Public Land Survey System section, fifty percent or more of which is within the area having as its outer boundary the 28/40 line, shall be designated as hydrologically connected for purposes of the overappropriated designations. The legal description of the geographic area within

which the Department has determined that the surface water and ground water are hydrologically connected for purposes of the overappropriated designations is attached hereto as Appendix I. Appendix II attached hereto is a map showing the designated overappropriated basins and the geographic area within which the Department has determined that surface water and groundwater are hydrologically connected for purposes of the overappropriated designations.

3. Interested persons may petition the Department to reconsider the designation of the overappropriated basins, the determination of the geographic area within which the Department has determined that surface water and groundwater are hydrologically connected for purposes of the overappropriated designations, or the criteria used to make the determination of hydrologic connectivity for purposes of the overappropriated designations. The petition for reconsideration must clearly state the basis for such request. For sufficient cause shown, the Director may re-examine the action imposed by this Order at any time.

DEPARTMENT OF NATURAL RESOURCES

September 15, 2004



Roger K. Patterson, Director

Appendix F:

Order of Final Determination of River Basins, Subbasins, or Reaches as Fully Appropriated, and Describing Hydrologically Connected Geographic Area, in the Matter of the Portion of the Platte River Basin Upstream of the Loup River Confluence, the North Platte River Basin, and the South Platte River Basin within the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District.

Dated September 30, 2004

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Portion of the)
Platte River Basin Upstream of)
the Loup River Confluence,)
the North Platte River Basin, and)
the South Platte River Basin within)
the South Platte Natural Resources)
District, the Twin Platte Natural)
Resources District and the Central)
Platte Natural Resources District)

ORDER OF FINAL
DETERMINATION OF RIVER BASINS,
SUBBASINS, OR REACHES AS
FULLY APPROPRIATED, AND DESCRIBING
HYDROLOGICALLY CONNECTED
GEOGRAPHIC AREA

This matter came on for consideration before the Director of the Department of Natural Resources (the "Department") pursuant to Section 54, subsection (5) of LB 962 (2004 Nebraska Legislature), codified at Neb. Rev. Stat. Section 46-714(5). That section requires the Department to: (1) notify the appropriate natural resources districts, within thirty days after the final hearing required by Section 46-714(4), of the Department's final determination as to whether a river basin, subbasin, or reach is fully appropriated; and (2) if the final determination is that the river basin, subbasin, or reach is fully appropriated, at the same time (a) decide whether to continue or to terminate the stays on new surface water uses and on increases in the number of surface water irrigated acres and (b) designate the geographic area within which the Department considers surface water and ground water to be hydrologically connected to the river basin, subbasin, or reach, and describe the methods and criteria used in making that determination.

The Director FINDS:

1. Prior to July 16, 2004, the Director of the Department made preliminary determinations, pursuant to subsection (2) of Neb. Rev. Stat. Section 46-656.28, as it existed prior to that date, that there was reason to believe that the use of hydrologically connected ground water and surface water in the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District, was contributing to or was in the reasonably foreseeable future likely to contribute to a conflict, dispute, or difficulty listed in such subsection. Each preliminary determination related to the entirety of the specific natural resources district. The preliminary determination was in response to the written request of each of these natural resources districts that the Department consult with and conduct studies on the natural resources district, and hold a hearing on the preparation of a joint action plan. Prior to July 16, 2004, the Director did not make a determination that a joint action plan should not be prepared, and the preparation of a joint action plan was not completed for any of the subject natural resources districts.

2. On July 16, 2004, the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District became subject to the provisions of subsection (3) of Section 60 of LB 962, codified at Neb. Rev. Stat. Section 46-720, and also Sections 53 to 59 of LB 962, codified at Neb. Rev. Stat. Sections 46-713 to 46-719.
3. Pursuant to Neb. Rev. Stat. Section 46-713, the Department duly provided notices to the public of its preliminary determinations that the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District were each fully appropriated in their entirety.
4. The Department and each of the referenced natural resources districts sent letters as follows:
 - a. Letter dated August 11, 2004 from the Department and the South Platte Natural Resources District;
 - b. Letter dated August 11, 2004 from the Department and the Twin Platte Natural Resources District;
 - c. Letter dated August 11, 2004 from the Department and the Central Platte Natural Resources District.

The appropriate letter which was sent to each irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach, and to other water users and stakeholders deemed appropriate by the Department or the affected natural resources district. Each letter offered the recipient the opportunity to consult with the Department and the appropriate natural resources district on the question as to whether the Department should make a final determination that the portion of the Platte, North Platte or South Platte Basin within that district is fully appropriated. The Department received, and duly considered, letters in response to the request for consultation.

5. The Department issued notice of, and held, two public information meetings in each natural resources district, as follows:
 - a. South Platte Natural Resources District public information meetings were held on August 25, 2004, and September 1, 2004.
 - b. Twin Platte Natural Resources District public information meetings were held on August 26, 2004, and August 31, 2004.

- c. Central Platte Natural Resources District public information meetings were held on August 27, 2004, and September 9, 2004.
6. Pursuant to statute, the Department issued notice of, and held, public hearings in each natural resources district, as follows:
 - a. South Platte Natural Resources District public hearing was held on September 1, 2004.
 - b. Twin Platte Natural Resources District public hearing was held on August 31, 2004.
 - c. Central Platte Natural Resources District public hearing was on September 9, 2004.
7. Public testimony was taken at each public hearing, and the record in each public hearing was held open for at least one full week following the date of the public hearing, in order to allow the receipt of any additional written testimony into the record.
8. A transcript was made for each public hearing, and the Department duly considered the testimony and evidence produced at the hearings.
9. In 1997, the States of Nebraska, Wyoming, and Colorado and the U.S. Department of the Interior signed the Cooperative Agreement for Platte River Research and Other Efforts Relating to Endangered Species Habitats Along the Central Platte River, Nebraska (the "Cooperative Agreement"). Pursuant to the Cooperative Agreement, Nebraska has prepared the Nebraska New Depletion Plan (the "New Depletion Plan"), a purpose of which is to describe the actions Nebraska proposes to take to prevent or mitigate for new depletions to the extent those new depletions are caused by new and expanded uses of water begun since the date of July 1, 1997.
10.
 - a. On February 27, 1979, by a memorandum to staff, the Director of the Department of Water Resources (now the Department of Natural Resources) ordered staff to deny all applications for natural flow for consumptive purposes in the Lodgepole Creek basin.
 - b. On December 13, 1979, the Director of the Department of Water Resources issued another memorandum to staff directing them to deny all applications for the direct use of natural flow from Pumpkinseed Creek and tributaries for irrigation purposes.
 - c. Through actions taken since approximately 1993, the Department of Natural Resources has effectively maintained other informal moratoriums through its discussions with possible applicants and through its orders regarding applications filed in the North

Platte River and its tributaries, the South Platte River and its tributaries, and the Platte River and its tributaries above the mouth of the Loup River.

- d. On July 14, 2004, the Department issued an Order Declaring Formal Moratorium on the issuance of new surface water appropriations in the Platte River Basin above the mouth of the Loup River, the North Platte River Basin, and the South Platte River Basin.
 - e. Numerous new wells have been registered with the Department since the Department stopped issuing surface water rights as described in this Section.
 - f. Departmental administration would have occurred frequently during the previous twenty years in the Platte River Basin upstream of the confluence with the Loup River, and in the North Platte River Basin and the South Platte River Basin if the surface water rights existing on July 16, 2004, had been in existence during the previous twenty years
11. a. South Platte Natural Resources District ordered a temporary suspension of well construction for all of the South Platte Natural Resources District, except for the Lodgepole Creek integrated management subarea, which temporary suspension took effect on January 14, 2004. The moratorium for the Lodgepole Creek integrated management subarea took effect on November 7, 2002.
- b. Twin Platte Natural Resources District ordered a temporary suspension of well construction in a portion of the natural resources district; that temporary suspension took effect July 1, 2004.
- c. Central Platte Natural Resources District ordered a temporary suspension of well construction in a portion of the natural resources district; that temporary suspension took effect November 20, 2003.
12. The method used to determine the hydrological connection for purposes of the final fully appropriated determination was to review and evaluate available and relevant data from the United States Geological Survey, the University of Nebraska Conservation and Survey Division, the data used in the development of the Cooperative Hydrology Study ("COHYST") Model, and other information that was included in the record of the public hearings referenced in finding Number 6 above.
13. In determining the hydrologically connected areas for purposes of the final fully appropriated determination, consideration was given to the following criteria:

- a. the boundaries of the area for which each of the natural resources districts initiated the joint action planning process under previous Section 46-656.28, which in the case of each of the natural resources districts was all areas within such natural resources district's boundaries; and
- b. the extent to which the methods used to determine hydrologic connectivity demonstrated that withdrawal of ground water from within the area would, at some future time, impact the surface water supply of the fully appropriated basin.

It is therefore CONCLUDED that it is in the public interest to (1) make a final determination that the portions of each of the Platte River Basin upstream of the Loup River confluence, the North Platte River Basin, and the South Platte River Basin within each of the South Platte Natural Resources District, the Twin Platte Natural Resources District and the Central Platte Natural Resources District are fully appropriated, (2) to continue the stays on new surface water uses and on increases in the number of surface water irrigated acres, and, (3) to designate the area within which surface water and ground water are hydrologically connected for purposes of the final determination of fully appropriated.

It is therefore ORDERED that:

1. The portions of each of the Platte River Basin upstream of the Loup River confluence, the North Platte River Basin and the South Platte River Basin that are within each of the South Platte Natural Resources District, the Twin Platte Natural Resources District and the Central Platte Natural Resources District are hereby determined to be fully appropriated, final determination.
2. The stays on new surface water uses and on increases in the number of surface water irrigated acres, that were effective as a result of the provisions of Section 46-720 and the Department's July 16, 2004, preliminary determination that the affected natural resources districts were fully appropriated, are continued as a result of this determination, and shall remain in effect until (a) they are terminated pursuant to law, (b) an integrated management plan for the affected area has been adopted and has taken effect, (c) the Department has completed a reevaluation of the area and has determined that the affected area is not fully appropriated, or (d) the stays expire pursuant to law. To the extent the geographic area subject to such stays is now within the land area designated as the overappropriated basin on September 15, 2004, or within the land area considered to be hydrologically connected for purposes of the overappropriated designation, such stays shall continue in effect as stays for that overappropriated basin and area considered to be hydrologically connected for purposes of the overappropriated designation.

3. The geographic area within which the Department has determined ground water to be hydrologically connected to the surface water for the purposes of the final fully appropriated determination includes the entire geographic area of the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District. Because none of the geographic area subject to the Department's preliminary determination of fully appropriated is excluded from the area for which this final determination is made, the stays on the construction of new water wells and on increases in acres irrigated with ground water will remain in effect unless terminated by the applicable district pursuant to subsection (7) and (8) of Section 46-714.

4. Interested persons may petition the Department for a rehearing to reconsider the final determination that the portions of the Platte River Basin upstream of the Loup River confluence, the North Platte River Basin and the South Platte River Basin within the South Platte Natural Resources District, the Twin Platte Natural Resources District and the Central Platte Natural Resources District are fully appropriated, the determination of the geographic area within which the Department has determined that surface water and ground water are hydrologically connected for purposes of the final determination of fully appropriated, or the criteria used to make the determination of hydrologic connectivity for purposes of the final determination of fully appropriated. Such petition for a rehearing must be filed within fifteen days of this order and must clearly state the basis for such request. For sufficient cause shown, the Director may re-examine the action imposed by this Order at any time.

DEPARTMENT OF NATURAL RESOURCES

September 30, 2004



Roger K. Patterson, Director

CERTIFICATE OF SERVICE

A copy of the foregoing ORDER DETERMINING FULLY APPROPRIATED RIVER BASINS, SUBBASINS, OR REACHES, AND DESCRIBING HYDROLOGICALLY CONNECTED GEOGRAPHIC AREA was mailed on September 30, 2004, to the following:

Central Platte Natural Resources District
215 North Kaufman Avenue
Grand Island, Nebraska 68803

South Platte Natural Resources District
P.O. Box 294
Sidney, Nebraska 69162

Twin Platte Natural Resources District
P.O. Box 1347
North Platte, Nebraska 69103