

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
ORDER ADOPTING LOWER ELKHORN NATURAL RESOURCES DISTRICT
VOLUNTARY INTEGRATED MANAGEMENT PLAN
AND ASSOCIATED SURFACE WATER CONTROLS

Background

1. On May 8, 2012, the Lower Elkhorn Natural Resources District (District) submitted to the Nebraska Department of Natural Resources (Department) a letter of intent to develop a voluntary Integrated Management Plan (IMP).
2. The Department and the District consulted on the development of the voluntary IMP with a group of stakeholders. The stakeholder group consisted of the statutorily required and other entities that were identified by the Department and the District to be included in the group. In addition, on August 9, 2018, the Department and District jointly held a public meeting to solicit public comments and opinions regarding the voluntary IMP. The meeting was publicly noticed in area newspapers and on the Department and District's websites. The members of the stakeholder group were invited to attend the meeting. Through this process of consultation, the Department and the District jointly developed a voluntary IMP in accordance with the Ground Water Management and Protection Act (the Act), particularly, *Neb. Rev. Stat.* §§ 46-715, 46-716, 46-717, and 46-718.
3. On August 13, 2018, the Department and the District reached agreement on: (a) the proposed goals and objectives of the voluntary IMP; (b) the proposed geographic area to be subject to the controls of the voluntary IMP; and (c) the surface water and groundwater controls that are proposed for adoption and implementation of the voluntary IMP.
4. On August 23, 2018, pursuant to notices duly published in accordance with *Neb. Rev. Stat.* § 46-743, the Department and the District jointly held a public hearing in Norfolk, Nebraska on the proposed voluntary IMP. There was no formal testimony to be considered from this hearing.
5. On October 18, 2018, the Department sent the District a letter agreeing to adopt the proposed voluntary IMP and surface water controls.
6. On October 25, 2018, the District's Board of Directors adopted the proposed IMP with minor editorial modifications and affirmed the use of groundwater controls necessary for implementing the voluntary IMP.

Surface Water Controls Adopted

The surface water controls included in the voluntary IMP are as follows:

1. Establish a limit on the expansion of surface water irrigation.

- a. **Basin-wide Plan Development Limits:** The Department will limit new surface water uses to 50 percent of the annually available stream depletion over the Basin Plan's first five-year increment which concludes on December 31, 2021.
- b. **Moratorium Areas:** Additionally, in areas where the District has established a moratorium on new groundwater uses, the Department will coordinate with the District regarding the purpose of those areas and will determine when a moratorium on new surface water uses would assist in achieving a mutually beneficial water quantity goal.
- c. **Evaluation System:** For the approval of new surface water rights, the Department will continue to implement existing evaluation criteria to determine whether or not a permit will be issued.

2. Establish methods of measuring surface water use.

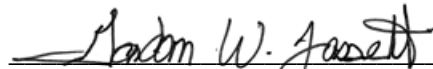
- a. **Require a measuring device.**
 - i. On new surface water permits for irrigation, industrial, or commercial uses pumping more than 50 gallons per minute.
 - ii. On existing and new surface water permits where the use is commingled with groundwater use and the District has established a rule or regulation on groundwater quantity where measuring the quantity of surface water will assist in achieving a mutually beneficial water quantity goal.
- b. **Establish a voluntary reporting program for other existing surface water uses in the District.** The Department will implement a voluntary reporting program for unmetered surface water irrigation diversions that pump more than 50 gallons per minute. The reports will include information about the quantity of water pumped, the acres irrigated, and the type of irrigation system (gravity, pivot, etc.) used. The Department will continue to evaluate the necessity for mandatory installation of water flow meters on all surface water pumps for irrigation, industrial, and municipal uses.

Order

It is therefore ORDERED that the voluntary integrated management plan for the Lower Elkhorn Natural Resources District and the surface water controls in the plan are HEREBY ADOPTED by the Department and will become effective on **November 23, 2018**.

DEPARTMENT OF NATURAL RESOURCES

October 25, 2018



Gordon W. Fassett, P.E., Director

Any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing in accordance with the *Nebraska Administrative Procedures Act* (*Neb. Rev. Stat. §§ 84-901 et. seq.*) and the Department's *Rules of Practice and Procedure* (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, NE 68509-4676) within 30 days of the date of this Order and be accompanied by a filing fee of \$10.00.

On October 25, 2018, a copy of this Order was posted on the Department's website at <http://dnr.nebraska.gov/>; mailed to Mike Sousek, General Manager, Lower Elkhorn Natural Resources District, 1508 Square Turn Blvd., Norfolk, NE 68701; and provided to the Department of Natural Resources field offices in Norfolk and Lincoln, Nebraska.