

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ORDER ADOPTING  
UPPER ELKHORN NATURAL RESOURCES DISTRICT AND  
DEPARTMENT OF NATURAL RESOURCES  
JOINTLY DEVELOPED VOLUNTARY INTEGRATED MANAGEMENT PLAN  
AND ASSOCIATED SURFACE WATER CONTROLS

In accordance with *Neb. Rev. Stat.* § 46-744, notice is hereby given that the Nebraska Department of Natural Resources (Department) on December 17, 2018, issued an order adopting the voluntary Integrated Management Plan (IMP) jointly developed by the Department and Upper Elkhorn Natural Resources District (District) along with the associated surface water control contained within the IMP. The IMP will be effective February 1, 2019.

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

**1. Surface Water Control Area 1 (Lower Niobrara Basin)**

**a. Moratorium or restriction on addition of surface water irrigated acres:**

Should the District issue a moratorium on any increase in groundwater-irrigated acres, the Department will issue a similar moratorium to limit development of additional acres for surface water irrigation. Should the District allow development of groundwater-irrigated acres in this area, the Department will restrict development of additional acres for surface water irrigation to one-third of the amount the District will allow for additional groundwater-irrigated acres for any surface water applications filed after the effective date of this VIMP. The Department will use the District's number of additional groundwater acres as of January 1 of each year for determining the number of additional acres for surface water irrigation in each calendar year. The District will notify the Department in writing no later than December 31 of any groundwater irrigated acres that have been allowed to be developed within Surface Water Control Area 1 for the previous calendar year. Should the District fail to notify the Department by the December 31 deadline of the groundwater acres allowed to be developed, the Department is not bound to limit surface water development in the following calendar year in this area.

**2. Surface Water Control Area 2 (Upper Missouri Tributaries Basin)**

**a. Education requirements:** The Department will continue to explore implementation of educational materials for new industrial and agricultural surface water permits.

**3. Surface Water Control Area 3 (Lower Platte Basin)**

**a. Limitation on expansion of surface water irrigation:** The Department will limit new surface water uses to 50 percent of the annually available stream depletion

over the Basin Plan's first 5-year increment, which concludes on December 31, 2021. Depletions not used will be redistributed annually and shared equally between the District and the Department.

**4. Surface Water Control Area 4 (Middle Niobrara Basin)**

- a. **Temporary stay on development of surface water irrigation:** The Department will stay approval of new surface water irrigation acres. Exceptions to the stay include, but are not necessarily limited to:
  - i. Appropriations for new surface water uses to which a right or permit is transferred in accordance with State law, but the consumptive use of any such new use can be no greater than the historic consumptive use of the surface water use from which the right or permit is being transferred, and
  - ii. New surface water natural flow appropriations that are necessary to alleviate an emergency situation involving the provision of water for human consumption, public health, or safety
- b. The stay shall run until the earlier of February 4, 2020, or such time that the surface water controls contained in the Middle Niobrara Integrated Management Plan have been implemented through an effective order of the Department.

The full text of the IMP and associated surface water controls and Order are available on the Department's website at <https://dnr.nebraska.gov> or by submitting a request to the Department, 301 Centennial Mall, South, P.O. Box 94676, Lincoln, Nebraska 68509-4675, (402) 471-2363, or to the District at 301 North Harrison Street, O'Neill, NE 68763, (402) 336-3867.