

STATE OF NEBRASKA

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

ORDER ADOPTING THE JOINTLY DEVELOPED VOLUNTARY  
INTEGRATED MANAGEMENT PLAN AND ASSOCIATED SURFACE WATER  
CONTROLS FOR THE MIDDLE NIOBRARA NATURAL RESOURCES DISTRICT

BACKGROUND

1. On December 30, 2020, the voluntary Integrated Management Plan (IMP), jointly developed by Middle Niobrara Natural Resources District (District or NRD) and the Nebraska Department of Natural Resources (Department or NeDNR) became effective. The IMP and associated surface and ground water controls was developed and implemented in accordance with the Groundwater Management and Protection Act, particularly Neb. Rev. Stat. §§ 46-715, 46-716, 46-717, and 46-718.
2. On May 9, 2022, the District and the Department met, in accordance with the Monitoring and Evaluation section of the IMP, to exchange data and discuss progress made toward achieving the goals and objectives of the IMP. At this meeting, the District and the Department discussed amending the groundwater control in the IMP.
3. On July 13, 2022, the Department sent a letter to the District that included the IMP and proposed amended groundwater control. In this letter the Department requested that the District review the proposed amendment and determine whether or not to hold a public hearing to take testimony on the amended IMP.
4. On July 22, 2022, the District sent a letter to the Department in support of the proposed amended IMP and recommended that a public hearing be held to take testimony on the amended IMP.
5. On September 1, 2022, pursuant to notices published in accordance with *Neb. Rev. Stat. § 46-743(2)*, the Department and the District jointly held a public hearing in Valentine, Nebraska on the amended IMP. No formal public testimony was received.
6. On September 12, 2022, the District's Board of Directors voted to advance the amended IMP as presented at the September 1, 2022, public hearing as the final draft.
7. On September 13, 2022, the District sent a letter to the Department agreeing to the final draft voluntary IMP.
8. On September 30, 2022, the Department sent a letter to the District agreeing to adopt the amended IMP and associated surface water controls.
9. The Department met all publication requirements for this Order pursuant to *Neb. Rev. Stat. § 46-744*.

## SURFACE WATER CONTROLS ADOPTED

The surface water control areas are shown in Figure 1, included in the voluntary IMP, and remain as follows:

### **1. Surface Water Control Area 1 (Niobrara basin)**

#### **a. Restriction on addition of surface water irrigated acres:**

NeDNR will restrict development of surface water irrigation based upon the amount of stream depletion to streams in the Niobrara River Basin resulting from newly permitted groundwater irrigation development. NeDNR will calculate additional stream depletion amounts due to new permitted groundwater irrigation development in a given year based on data provided by the District and will restrict additional stream depletion from surface water irrigation to no more than that level of depletion in the same year. The District will notify NeDNR within 30 days of its planned approval of groundwater development and will provide the necessary data – including legal description (section, township, and range) and number of acres irrigated – to NeDNR on all new groundwater irrigation by October 31. NeDNR will notify the District of all surface water appropriations as they are approved, including information on the location and number of acres irrigated.

### **2. Surface Water Control Area 2 (Loup River basin)**

#### **a. Restriction on addition of surface water irrigated acres:**

NeDNR will restrict development of surface water irrigation based upon the amount of stream depletion to streams in the Loup River Basin resulting from newly permitted groundwater irrigation development. NeDNR will calculate additional stream depletion amounts due to new permitted groundwater irrigation development in a given year based on data provided by the District and will restrict additional stream depletion from surface water irrigation by up to the same amount in the same year. The District will notify NeDNR within 30 days of its planned approval of groundwater development and will provide the necessary data – including legal description (section, township, and range) and number of acres irrigated – to NeDNR on all new groundwater irrigation by October 31. NeDNR will notify the District of all surface water appropriations as they are approved, including information on the location and number of acres irrigated.

### **3. Surface Water Control Area 3 (Elkhorn River basin)**

#### **a. Restriction on addition of surface water irrigated acres:**

NeDNR will restrict development of surface water irrigation based upon the amount of stream depletion to streams in the Elkhorn River basin resulting from newly permitted groundwater irrigation development. NeDNR will calculate additional stream depletion amounts due to new permitted groundwater irrigation development in a given year based on data provided by the District and will restrict additional stream depletion from surface water irrigation by up to the same amount in the same year. The District will notify NeDNR within 30 days of its planned approval of

groundwater development and will provide the necessary data – including legal description (section, township, and range) and number of acres irrigated – to NeDNR on all new groundwater irrigation by October 31. NeDNR will notify the District of all surface water appropriations as they are approved, including information on the location and number of acres irrigated.

**4. Surface Water Control Area 4 (White River basin)**

**a. Restriction on addition of surface water irrigated acres:**

NeDNR has, since 2004, had a moratorium in place in this basin on the development of surface water irrigation. This moratorium will not be renewed as part of this IMP.

NeDNR will restrict development of surface water irrigation based upon the amount of stream depletion to streams in the White River Basin resulting from newly permitted groundwater irrigation development allowed by the NRD. NeDNR will calculate additional stream depletion amounts due to new permitted groundwater irrigation development in a given year based on data provided by the District and will restrict additional stream depletion from surface water irrigation by up to the same amount in the same year. The District will notify NeDNR within 30 days of its planned approval of groundwater development and will provide the necessary data – including legal description (section, township, and range) and number of acres irrigated – to NeDNR on all new groundwater irrigation by October 31. NeDNR will notify the District of all surface water appropriations as they are approved, including information on the location and number of acres irrigated.

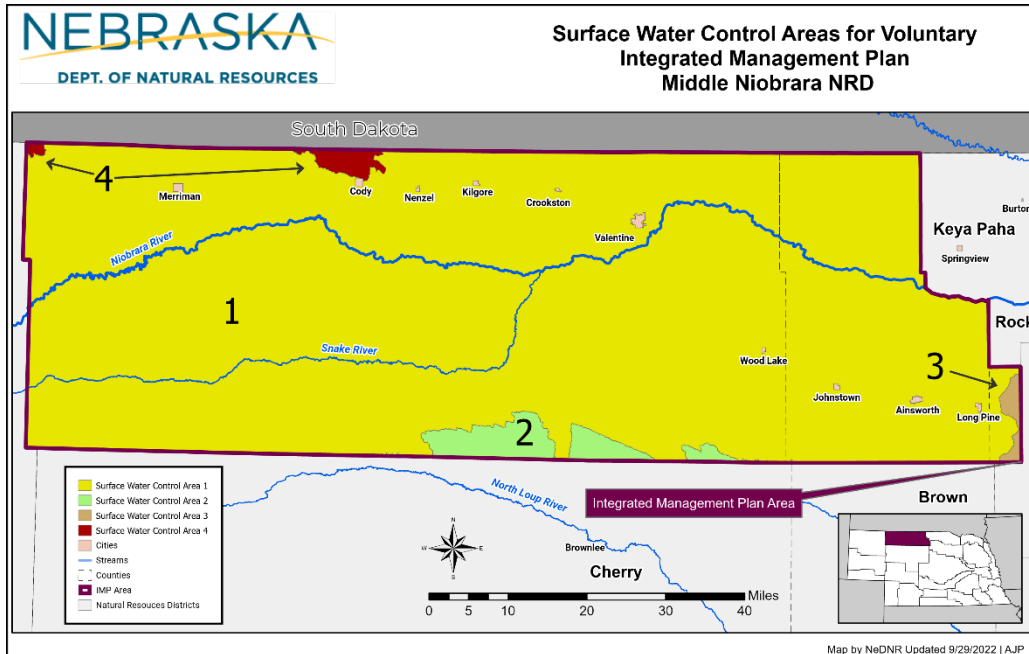


Figure 1: Surface Water Control Areas

ORDER

It is hereby ORDERED that the voluntary Integrated Management Plan, *jointly developed by the Middle Niobrara Natural Resources District and the Nebraska Department of Natural Resources*, and the surface water controls in the plan are hereby ADOPTED by the Department and will become effective on **October 27, 2022**.

DEPARTMENT OF NATURAL RESOURCES

September 30, 2022

Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department’s website at [dnr.nebraska.gov](http://dnr.nebraska.gov). Copies of this Order were provided to the Department’s field offices in Bridgeport, and Ord, Nebraska. A copy of this Order was provided to Tim Nollette, Board Chair, Middle Niobrara NRD, 303 East Hwy 20, Valentine NE 69201.