

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER ADOPTING THE UPPER REPUBLICAN NATURAL RESOURCES DISTRICT
INTEGRATED MANAGEMENT PLAN AND ASSOCIATED SURFACE WATER CONTROLS

BACKGROUND

1. The Department of Natural Resources (NeDNR) and the Upper Republican Natural Resources District (URNRD) jointly adopted an integrated management plan (IMP) in 2005, in accordance with the Ground Water Management and Protection Act, particularly *Neb. Rev.Stat.* §§ 46-715, 46-717, 46-718, and 46-720.
2. In 2008, NeDNR and the URNRD jointly revised the IMP for the first time and subsequently adopted the second generation of the IMP.
3. In 2010, NeDNR and the URNRD reached agreement on a second set of revisions, and jointly adopted the third generation IMP.
4. In 2015, NeDNR and the URNRD reached agreement on a third set of revisions, and jointly adopted the fourth generation IMP to be effective on January 15, 2016.
5. On March 24, 2021, NeDNR and the URNRD held a stakeholder meeting to receive comments on the proposed modifications to the IMP, and stakeholders from the URNRD were also invited to provide comments on the proposed modifications to the IMP at meetings in the Middle Republican NRD and Lower Republican NRD on March 25.
6. NeDNR and the URNRD published a joint notice of hearing pursuant to *Neb. Rev. Stat.* § 46-743.
7. NeDNR consulted with the Nebraska Game and Parks Commission (Commission), in accordance with *Neb. Rev. Stat.* § 37-807. As stated in the Commission's response letter received on June 23, 2021, the Commission determined that the adoption of the proposed IMP would have no adverse effect on threatened or endangered species or their habitat.
8. On March 28, 2021, NeDNR and the URNRD reached agreement to modify the IMP for a fourth time. The proposed modifications include an updated in-state accounting equation used to assess NRD compliance; changes related to the Republican River Basin-Wide Plan, including a proposed new goal; and updates related to changes in the Republican River Compact Administration (RRCA) procedures.
9. On July 6, 2021, a public hearing was held on the proposed revisions to the IMP. No comments were received at the public hearing or in writing.
10. NeDNR and the URNRD jointly agreed to implement the IMP. This includes joint agreement on the goals and objectives of the IMP, the geographic area subject to the controls, the surface water controls adopted and implemented by NeDNR, the groundwater controls adopted and implemented by the District through the District's Ground Water Management Area Rules and Regulations, and incentive programs.

11. On August 3, 2021, the URNRD Board of Directors voted to adopt the proposed IMP and affirmed continued use of the groundwater controls necessary for meeting the compliance standards identified in the IMP.
12. On August 16, 2021, the URNRD sent NeDNR a letter agreeing to adopt the proposed IMP and groundwater controls.
13. On August 20, 2021, NeDNR sent the URNRD a letter agreeing to adopt the proposed IMP and surface water controls.

SURFACE WATER CONTROLS ADOPTED

The following surface water controls will **remain effective** within the URNRD Integrated Management Plan:

1. NeDNR will do the following additional surface water administration as required by the FSS:
 - a. To provide for regulation of natural flow between Harlan County Lake and Superior-Courtland Diversion Dam, Nebraska will recognize a priority date of February 26, 1948, for Kansas Bostwick Irrigation District, the same priority date as the priority date held by the Nebraska Bostwick Irrigation District's Courtland Canal water right.
 - b. When water is needed for diversion at Guide Rock and the projected or actual irrigation supply is less than 130,000 acre-feet of storage available for use from Harlan County Lake as determined by the Bureau of Reclamation using the methodology described in Harlan County Lake Operation Consensus Plan attached as Appendix K to the Final Settlement Stipulation (FSS), Nebraska will close junior, and require compliance with senior, natural flow diversions of surface water between Harlan County Lake and Guide Rock.
 - c. Nebraska will protect storage water released from Harlan County Lake for delivery at Guide Rock from surface water diversions.
 - d. Nebraska, in concert with Kansas and in collaboration with the United States, and in the manner described in Appendix L to the FSS, will take actions to minimize the bypass flows at Superior-Courtland Diversion Dam.
2. Metering of all surface water diversions at the point of diversion from the stream will continue to be required. For surface water canals that are not part of a Bureau of Reclamation project, farm turnouts are required to install and maintain a NeDNR-approved measuring device by the start of the 2005 irrigation season. All measuring devices shall meet the NeDNR standards for installation, accuracy, and maintenance. All appropriators will be monitored to ensure that neither the rate of diversion nor the annual amount diverted exceeds that allowed by the applicable permit or by statute.
3. NeDNR's moratorium on the issuance of new surface water permits was made formal by Order of the Director dated July 14, 2004. Exceptions may be granted by the NeDNR to the extent permitted by *Neb. Rev. Stat.* § 46-714(3) or to allow issuance of permits for existing reservoirs that currently do not now have such permits. Such reservoirs are limited to those identified through the FSS-required inventory of reservoirs with over 15 acre-feet capacity.

4. All proposed transfers of surface water rights shall be subject to the criteria for such transfers as found in *Neb. Rev. Stat. §§ 46-290 to 46-294.04* and related NeDNR rules or the criteria found in *Neb. Rev. Stat. §§ 46-2,120 to 46-2,130* and related NeDNR rules.
5. NeDNR will utilize NeDNR records to monitor use of surface water and to make sure that unauthorized irrigation is not occurring. The NeDNR will also be proactive in initiating subsequent adjudications whenever information available to the NeDNR indicates the need for adjudications outlined by state statutes.
6. During Compact Call Years, as determined from the procedures and analysis set forth in the *Monitoring and Studies Technical Memorandum for the URNRD, MRNRD, and LRNRD IMPs* (Technical Memorandum, available on file with NeDNR), NeDNR may regulate and administer surface water in the basin as necessary to ensure Compact compliance. During Compact Call Years, NeDNR will issue a "Compact Call" on the Republican River at Hardy or Guide Rock to carry out necessary administration for the Compact in a manner consistent with the doctrine of prior appropriation. A "Compact Call" may result in NeDNR issuing closing notices on natural flow and storage permits in the basin until such time as NeDNR, in consultation with the URNRD and other basin NRDs, determines that yearly administration is no longer needed to ensure Compact compliance.
7. During Compact Call Years, as determined from the procedures and analysis set forth in the Technical Memorandum, NeDNR will regulate and administer surface water in the basin as necessary to ensure that augmentation deliveries for the purpose of Compact compliance are administered to the location of Compact compliance. NeDNR will issue closing notices on the necessary natural flow and storage permits in the basin until such time as NeDNR, in consultation with the URNRD and other basin NRDs, determines that administration is no longer needed to ensure augmentation deliveries have been completed.

ORDER

It is therefore ORDERED the Integrated Management Plan Jointly Developed by the Department of Natural Resources and the Upper Republican Natural Resources District, and the surface water controls included in the plan are hereby ADOPTED and will become effective on **September 27, 2021**; thus superseding the January 15, 2016, Upper Republican Natural Resources District Integrated Management Plan.

DEPARTMENT OF NATURAL RESOURCES

August 23, 2021



Thomas E. Riley, P.E., Director

A copy of this Order was posted on NeDNR's website. A copy of this Order was provided to NeDNR's field office in Cambridge, Nebraska. A copy of this Order was emailed on August 24, 2021, to Jasper Fanning, General Manager, Upper Republican Natural Resources District, jasperfanning@urnrd.org.