

are fully appropriated and of the geographic areas in which the surface water and ground water are hydrologically connected. Pursuant to Department rule, 457 NAC 24.001.02, the hydrologically connected area is the area within which pumping of a well for 50 years will deplete the river or a baseflow tributary thereof by at least 10% of the amount pumped in that time (the "10/50 area"). To make that determination, the Department utilized the Jenkins Stream Depletion Factor Analysis, and the UBBNRD model, which was derived from the Cooperative Hydrology Study ("COHYST") model.

5. Pursuant to Neb. Rev. Stat. Section 46-713, on January 2, 2006, the Department duly provided notice to the public of its preliminary determinations.
6. On March 2, 2006, the Department issued notices to the affected natural resources districts and the public that it had received additional information from the COHYST model regarding the geographic area within which surface water and ground water supplies for the Upper Platte River Basin are hydrologically connected. The COHYST model is considered by the Department to be the best scientific data and information currently available for determining the hydrologically connected area. This new information resulted in a change in the location of the boundary of the geographic area in which the surface water and ground water are hydrologically connected from the location of the boundary in the Department's December 30, 2005 preliminary determination. The COHYST model information received by the Department included an additional 13 sections ("Additional Sections") of land in Kearney County in which ground water is hydrologically connected to the Upper Platte River Basin and excluded approximately 188 sections of land (the "Excluded Sections") in which ground water was identified as hydrologically connected to the Upper Platte River Basin in the Department's December 30, 2005 report. In accordance with Neb. Rev. Stat. Section 46-714(1) stays were placed on new uses of surface water in the Upper Platte River Basin portion of the Additional Sections and the TBNRD was notified that stays were placed on new uses of hydrologically connected ground water in the Additional Sections.
7. The Department issued notice of, and held, two public information meetings and two public hearings, on March 23, 2006 and March 24, 2006.
8. 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.
9. A transcript was made for each public hearing, and the Department duly considered the testimony and evidence produced at the hearings.
10. As required by Neb. Rev. Stat. Section 46-714(4) each irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected portion of the Upper Platte River Basin and other water users and stakeholders deemed appropriate by the Department or the affected natural resources district was consulted by the Department and the pertinent

natural resources district. No additional comments were received during the consultation process.

Based on information in the attached report, information from the COHYST model, and the information contained in the record of the public hearings, it is CONCLUDED that it is in the public interest to (1) make a final determination that the portions of the Platte River Basin upstream of the Loup River confluence within the TBNRD (downstream of the overappropriated portion), the LBNRD, and the UBBNRD 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 the Platte River Basin upstream of the Loup River confluence that are within the TBNRD (downstream of the overappropriated area), the LBNRD, and the UBBNRD 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 Department's December 30, 2005, 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.
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 within the 10/50 area in Kearney and Phelps counties, based on the COHYST Model, and within the 10/50 area in Hamilton County, based on the UBBNRD model, as such areas are described in Appendix I and depicted on the map in Appendix II. 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 Neb. Rev. Stat. Section 46-714. The Excluded Sections that were included in the preliminary determination are not considered to be in the hydrologically connected area and the stays that were in place in the Excluded Sections are hereby removed.
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, within the TBNRD (downstream of the overappropriated area), LBNRD and UBBNRD 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 reexamine the action imposed by this Order at any time.

DEPARTMENT OF NATURAL RESOURCES

April 21, 2006

Ann Bleed, Acting Director

CERTIFICATE OF SERVICE

A copy of the foregoing ORDER OF FINAL DETERMINATION OF RIVER BASINS, SUBBASINS, OR REACHES AS FULLY APPROPRIATED, AND DESCRIBING HYDROLOGICALLY CONNECTED GEOGRAPHIC AREAS, with Appendices, and the Annual Report was mailed on April ____, 2006, to the following:

Little Blue Natural Resources District
110 West 2nd
P.O. Box 100
Davenport, Nebraska 68335-0100

Tri-Basin Natural Resources District
Phelps County Ag Center
1308 – 2nd Street
Holdrege, Nebraska 68949-2803

Upper Big Blue Natural Resources District
105 Lincoln Avenue
York, Nebraska 68467

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