

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER ADOPTING THE TRI-BASIN NATURAL RESOURCES DISTRICT
INTEGRATED MANAGEMENT PLAN FOR THOSE PORTIONS OF THE TRI-
BASIN NRD LOCATED WITHIN THE REPUBLICAN RIVER BASIN AND
ASSOCIATED SURFACE WATER CONTROLS

Background

1. The Department of Natural Resources (Department) and the Tri-Basin Natural Resources District (District) consulted and collaborated on the development of the integrated management plan (IMP) with a group of stakeholders over the course of several years. The stakeholder group consisted of the statutorily required entities and other entities which were identified by the District and the Department. A final stakeholder meeting was conducted on December 13, 2011. Through this process of consultation and collaboration the Department and the District jointly developed an IMP in accordance with the Ground Water Management and Protection Act (the Act), particularly *Neb. Rev. Stat.* §§ 46-715, 46-716, 46-717, 46-718, and 46-720.
2. The District and the Department reached agreement on (a) the proposed goals and objectives of the IMP for the affected river basin, subbasin, or reach, (b) the proposed geographic area to be subject to the controls, (c) the surface water controls and the ground water controls, which are adopted and implemented by the Tri-Basin NRD through the Tri-Basin NRD Rules and Regulations.
3. On April 10, 2012, pursuant to notices duly published in accordance with *Neb. Rev. Stat.* § 46-743, the District and the Department jointly held a public hearing at the NRD Office in Holdrege on the proposed IMP.
4. Following the hearing on April 10, 2012, the Department and the District jointly considered hearing testimony and decided to adopt and implement the proposed IMP and the surface water controls, ground water controls, and incentive programs proposed in the IMP without modifications.
5. The Department 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 May 2, 2012, the Commission determined that the adoption of the proposed IMP would have no adverse effect on threatened and endangered species or their habitat.

6. After duly considering all testimony, on June 4, 2012, the Department sent a letter agreeing to implement the plan and to adopt and implement the controls and incentive programs noted in the plan without modifications.

Controls Adopted

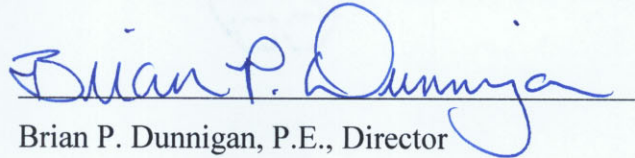
1. Metering of all surface water diversions at the point of diversion from the stream will continue to be required. For surface water canals that are not part of a Bureau of Reclamation project, farm turnouts also will be required to be metered. All meters shall have a totalizer and shall meet DNR standards for installation, accuracy and maintenance. All appropriators will be monitored closely to ensure that neither the rate of diversion nor the annual amount diverted exceeds that allowed by the applicable permit or by statute.
2. The DNR's moratorium on the issuance of new surface water permits was made formal by Order of the Director dated July 14, 2004, and will be continued. Exceptions may be granted to the extent permitted by statute 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 over fifteen (15) acre-feet capacity reservoirs.
3. 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 DNR rules or the criteria found in *Neb. Rev. Stat.* §§ 46-2,120 to 46-2,130 and related DNR rules.
4. The DNR completed the adjudication process for individual appropriators in the Republican River Basin upstream of Guide Rock in 2004. The results of that adjudication provided up-to-date records of the number and location of acres irrigated with surface water by such appropriators. Those records will be used by the DNR to monitor use of surface water and to make sure that unauthorized irrigation is not occurring. The DNR also will be proactive in initiating subsequent adjudications whenever information available to the DNR indicates the need for adjudication as outlined by state statutes.
5. During Compact Call Years, as determined through the forecast set forth in *Neb. Rev. Stat.* § 46-715(6), DNR will regulate and administer surface water in the basin as necessary to ensure Compact compliance.

Order

It is therefore ORDERED that the Integrated Management Plan for the Tri-Basin Natural Resources District jointly adopted by the District, and the surface water controls contained in the Integrated Management Plan are hereby adopted by the Department and will become effective on July 1, 2012.

DEPARTMENT OF NATURAL RESOURCES

DATE: June 4, 2012


Brian P. Dunnigan, P.E., Director

Any person with sufficient legal interest who has been or may be substantially affected by this Order may request a hearing in accordance with the Nebraska Administrative Procedures Act (*Neb. Rev. Stat. §§ 84-901 et. seg.*) 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.

On June 4, 2012, a copy of this Order was posted on the Department's website and mailed to John Thorburn, General Manager, Tri-Basin Natural Resources District, 1723 Burlington Street, Holdrege, Nebraska 68949, and to the Department of Natural Resources field offices.