

**BY ORDER OF
THE NORTH PLATTE NATURAL RESOURCES DISTRICT
ORDER ADOPTING INTEGRATED MANAGEMENT PLAN AND ASSOCIATED GROUND
WATER CONTROLS AND DESIGNATING AN INTEGRATED MANAGEMENT SUB-AREA
ORDER NUMBER NPNRD-17**

This matter came on for consideration before the North Platte Natural Resources District (NPNRD or District) Board of Directors (Board) pursuant to Neb. Rev. Stat. §§ 46-715, 46-716, 46-717, 46-718, and 46-720, which require the NPNRD and the Nebraska Department of Natural Resources (Department) to jointly develop an integrated management plan (IMP) and associated controls for the fully and overappropriated portions of the District.

The Board FINDS:

1. On July 16, 2004, the Department published a Notice that the entirety of the NPNRD was fully appropriated with the exception of the Pumpkin Creek Basin Ground Water Management Sub-Area (Maps 1 and 2).
2. On September 15, 2004, the Department adopted an Order designating the Platte River Basin upstream of the Kearney Canal diversion as overappropriated. The portion of the NPNRD designated as overappropriated is shown on Map 3.
3. Due to the Department's Notice determining the District to be fully appropriated and Order designating a portion of the District as overappropriated, the Department and the NPNRD were required to jointly develop an IMP for the entirety of the District.
4. The NPNRD and the Department formed a Stakeholders Group to assist in developing the IMP using a consultation process pursuant to Neb. Rev. Stat. § 46-717(2) for the fully appropriated portion of the IMP and a consultation and collaboration process pursuant to Neb. Rev. Stat. § 46-715(4)(b) for the overappropriated portion of the IMP. The Stakeholders Group included persons representing irrigation districts, public power and irrigation districts, municipalities, and other interests within the District. Numerous Stakeholders Group meetings were held beginning in 2003, prior to the adoption of LB962 (2004), through February 17, 2009. The Stakeholders Group was unable to reach agreement on the content of the IMP.
5. In developing the IMP, the Department and the NPNRD duly considered the relevant scientific data and other information as set forth in Department and NPNRD rules and regulations as required by Neb. Rev. Stat. § 46-717(1).
6. Since agreement was not reached by the Stakeholders Group on the contents of the IMP, the NPNRD and the Department reached agreement on the IMP pursuant to Neb. Rev. Stat. § 46-715(4)(b). The NPNRD Board passed a motion at the April 9, 2009, regular Board meeting to send a letter to the Department reciting that agreement between the NPNRD and the Department had been reached regarding 1) the proposed goals and objectives of the IMP, 2) the proposed geographic area to be subject to controls, and 3) the surface water and ground water controls and incentive programs in the proposed IMP for adoption and implementation. The Board then sent a letter notifying the Department of this agreement. The Department responded with a letter agreeing with the NPNRD that agreement on these points had been reached.
7. The NPNRD and the Department held a joint public hearing on the proposed IMP and associated controls on June 17, 2009, pursuant to Neb. Rev. Stat. §§ 46-718(1) and 46-743. Notice of such public

hearing was published in the Scottsbluff Star-Herald on May 27, June 3, and June 10, 2009. Copies of the proposed IMP and associated controls were made available at the NPNRD office in Scottsbluff, Nebraska, at the Department office in Lincoln, Nebraska, on the NPNRD's website, and on the Department's website.

8. Testimony was received at the public hearing from NPNRD, the Department, Central Nebraska Public Power and Irrigation District, Nebraska Public Power District, Gerrod Toepfer, and Burdette Kister. The NPNRD, the Department, and Central Nebraska Public Power and Irrigation District provided exhibits to be made part of the record. The testimony and all of the exhibits received at the public hearing were distributed to each member of the NPNRD Water Resources Subcommittee on July 7, 2009, for discussion and consideration at the July 7 and July 30, 2009, NPNRD Water Resources Subcommittee meetings. The testimony and all of the exhibits were distributed to each member of the Board at the July 9, 2009, regular Board meeting for discussion and consideration at the July 30 and August 13, 2009, Board meetings.

9. Currently, the NPNRD has determined that the Western Model Unit of the Cooperative Hydrology Study is the best science available to address the impact of streamflow depletions to the extent those depletions are due to water use initiated after July 1, 1997, including the methods and management actions and controls adopted in this IMP to meet the goals and objectives of the overappropriated portion of the IMP.

10. Estimations of the difference between current and fully appropriated levels of development and the methodology used to estimate those differences are not supported by sufficient credible evidence and have not been accepted or adopted by the NPNRD. To address this, the IMP provides in Chapter 7, I.C. (pages 19 and 20), a process by which to calculate the difference, if any, between current and fully appropriated levels of development, which will be addressed, if necessary, in subsequent increments.

11. At the July 30, 2009, special Board meeting, the Board approved a motion proposing to implement the proposed IMP without modifications and to adopt and implement the controls and incentive programs included in the proposed IMP. The Board then sent a letter notifying the Department of this action. The Department responded with a letter agreeing with the Board's proposal to implement the proposed IMP without modification and to adopt and implement the controls and incentive programs included in the proposed IMP.

12. The ground water controls included in the IMP are generally described as follows:

A. Fully Appropriated Portion of the IMP

1. Moratorium on the issuance of water well construction permits and on new or expanded ground water uses;
2. Certification of ground water uses by the District;
3. Provisions for ground water transfers;
4. System of accounting and offset requirements for new and expanded municipal use; and
5. System of accounting and offset requirements for new and expanded non-municipal industrial use.

B. Overappropriated Portion of the IMP

1. Allocation of fifty-six (56) inches per certified irrigated acre for a four (4) year allocation period;
2. The allocation for separate certified irrigated tracts may be combined into designated allocation units provided they meet the criteria for eligibility; and

3. The controls that have been implemented in the Pumpkin Creek Basin Ground Water Management Sub-Area will be continued. These controls include the following: (1) a moratorium on water well construction permits and on new or expanded ground water uses; (2) certification of ground water uses; (3) allocations including combined allocations for designated allocation units; and (4) not providing for ground water transfers.

13. The entirety of the NPNRD was designated as a ground water management area prior to the fully appropriated determination and the overappropriated designation. Pursuant to Neb. Rev. Stat. § 46-718(2), the area subject to the IMP shall be designated as an integrated management sub-area if the area subject to the IMP is already designated as a ground water management area.

It is therefore CONCLUDED that the North Platte Natural Resources District should adopt the integrated management plan and associated ground water controls included in the integrated management plan and establish an integrated management sub-area.

It is therefore ORDERED that:

1. The integrated management plan for the North Platte Natural Resources District is hereby adopted and shall be implemented.
2. An integrated management sub-area is established encompassing the area within the boundaries of the North Platte Natural Resources District determined to be fully appropriated (Map 1) and the area designated as overappropriated (Map 3). The stratigraphic boundaries subject to the integrated management sub-area include all sediments from ground level downward through all aquifer units.
3. The ground water controls set forth in the integrated management plan are hereby adopted and shall be implemented.
4. The integrated management plan is incorporated into this Order by reference as though fully set forth herein.

This Order shall become effective on September 14, 2009, pursuant to Neb. Rev. Stat. § 46-744.

NORTH PLATTE NATURAL RESOURCES DISTRICT

August 13, 2009

George Hall, Chair

Adoption of this Order was approved by the Board of Directors of the North Platte Natural Resources District at a regular meeting held in Scottsbluff, Nebraska, on the 13th Day of August, 2009.

Attest: Arden Wohlers, Secretary

A copy of the IMP is available for inspection during normal weekday working hours at the office of the NPNRD located at 100547 Airport Road in Scottsbluff, Nebraska. The IMP is also available on the NPNRD website at www.npnrd.org.