

DNR Orders

VI. DEPARTMENT OF NATURAL RESOURCES ORDERS

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES.

In the Matter of the)
Platte River Basin upstream of)
the Kearney Canal Diversion, the)
North Platte River Basin, and)
the South Platte River Basin)

ORDER DESIGNATING
OVERAPPROPRIATED RIVER BASINS,
SUBBASINS, OR REACHES, AND
DESCRIBING HYDROLOGICALLY
CONNECTED GEOGRAPHIC AREA

This matter came on for consideration before the Director of the Department of Natural Resources (the "Department") pursuant to Section 53, subsection (4) of LB 962 (2004 Nebraska Legislature), codified at Neb. Rev. Stat. Section 46-713(4), which requires the Department to designate which river basins, subbasins, or reaches are overappropriated within sixty days after the operative date of that section. Furthermore, the designation shall include a description of the geographic area within which the Department has determined that surface water and ground water are hydrologically connected and the criteria used to make such determination.

Section 46-713(4) (a) provides as follows:

A river basin, subbasin, or reach shall be deemed overappropriated if, on July 16, 2004, the river basin, subbasin, or reach is subject to an interstate cooperative agreement among three or more states and if, prior to such date, the department has declared a moratorium on the issuance of new surface water appropriations in such river basin, subbasin, or reach and has requested each natural resources district with jurisdiction in the affected area in such river basin, subbasin, or reach either (i) to close or to continue in effect a previously adopted closure of all or part of such river basin, subbasin, or reach to the issuance of additional water well permits in accordance with subdivision (1)(k) of section 46-656.25 as such section existed prior to July 16, 2004, or (ii) to temporarily suspend or to continue in effect a temporary suspension, previously adopted pursuant to section 46-656.28 as such section existed prior to July 16, 2004, on the drilling of new water wells in all or part of such river basin, subbasin, or reach.

The Director FINDS:

1. In 1997, the States of Nebraska, Wyoming, and Colorado and the U.S. Department of the Interior signed the Cooperative Agreement for Platte River Research and Other Efforts Relating to Endangered Species Habitats Along the Central Platte River, Nebraska (the "Cooperative Agreement").
 - a. Pursuant to the Cooperative Agreement, Nebraska has prepared the Nebraska New Depletion Plan (the "New Depletion Plan"), a purpose of which is to describe the actions Nebraska proposes to take to prevent or mitigate for new depletions to the extent those new depletions are caused by new and expanded uses of water since the target date of July 1, 1997.

2.
 - a. On February 27, 1979, by a memorandum to staff, the Director of the Department of Water Resources (now the Department of Natural Resources) ordered staff to deny all applications for natural flow for consumptive purposes in the Lodgepole Creek basin.
 - b. On December 13, 1979, the same Director of the Department of Water Resources issued another memorandum to staff directing them to deny all applications for the direct use of natural flow from Pumpkinseed Creek and tributaries for irrigation purposes.
 - c. Through actions taken since approximately 1993, the Department of Natural Resources has effectively maintained other informal moratoriums through its discussions with possible applicants and through its orders regarding applications filed in the North Platte River and its tributaries, the South Platte River and its tributaries, and the Platte River and its tributaries above the mouth of the Loup River.
 - d. On July 14, 2004, the Department issued an Order Declaring Formal Moratorium on the issuance of new surface water appropriations in the Platte River Basin above the mouth of the Loup River, the North Platte River Basin, and the South Platte River Basin.
 - e. Numerous new wells have been registered with the Department since the Department stopped issuing surface water rights as described in this Section.
3. The Department has made written requests to each Natural Resources District ("NRD") with jurisdiction in the affected area, as follows:
 - a. By letter dated July 13, 2004, to Jim Olson, Chair of the North Platte NRD, the Department requested the North Platte NRD to continue in effect a previously adopted closure of the Pumpkin Creek integrated ground water management subarea to the issuance of additional water well permits and to continue in effect a previously adopted temporary suspension on the drilling of new water wells in the remainder of the Natural Resources District.
 - b. By letter dated July 13, 2004, to Alicia Haussler, Chair of the Central Platte NRD, the Department requested the Central Platte NRD to continue in effect a temporary suspension of well construction that took effect November 20, 2003 in a portion of the Natural Resources District, and to extend the temporary suspension to include all of the area the Department had preliminarily determined to be hydrologically connected to the overappropriated basin.

- c. By letter dated July 13, 2004, to Bradley Lundeen, Chair of the Tri-Basin NRD, the Department requested the Tri-Basin NRD to either close the geographic area the Department preliminarily determined to be hydrologically connected to the overappropriated basin, as identified on a map enclosed with the Department's letter, to the issuance of additional water well permits, or temporarily suspend the drilling of new water wells within that identified area.
 - d. By letter dated July 13, 2004, to Keith Rexroth, Chair of the South Platte NRD, the Department requested the South Platte NRD to continue in effect a previously adopted closure of the Lodgepole Creek integrated ground water management subarea to the issuance of additional water well permits and to continue in effect a previously adopted temporary suspension on the drilling of new water wells in the remainder of the Natural Resources District.
 - e. By letter dated July 13, 2004, to Jim Rubenthaler, Chair of the Twin Platte NRD, the Department requested the Twin Platte NRD to continue in effect a previously adopted temporary suspension of well construction in a portion of the Natural Resources District, and to extend the temporary suspension to include all of the area the Department had preliminarily determined to be hydrologically connected to the overappropriated basin, as identified on a map enclosed with the Department's letter.
4. Included with the Department's July 13, 2004 correspondence listed in Section 3 of this Order were maps identifying the portions of each of the Natural Resources Districts within which the Department was preliminarily considering the surface water and ground water to be hydrologically connected to the overappropriated basin.
 5. The criteria used to make the determination of hydrologically connected surface water and ground water for purposes of the overappropriated designation is as follows:
 - a. The area within which pumping of a well for 40 years will deplete the North Platte River, South Platte River, Platte River or a base flow tributary thereof by at least 28% of the amount pumped in that time (referred to as the "28/40 line"). The 28/40 line is also relevant for management purposes in terms of the Cooperative Agreement, which is one of the criteria on which the overappropriated designation rests. The New Depletion Plan prepared as a result of the Cooperative Agreement requires that the NRDs responsible for its implementation have groundwater management areas that cover all land area within the Platte River Basin and also the area within the 28/40 line.
 - b. To the extent not included as a result of the 28/40 line, any other land area that is within the North Platte NRD's current integrated ground water management subarea of the Pumpkin

Creek subbasin, or the South Platte NRD's current integrated ground water management subarea of the Lodgepole Creek subbasin. This criteria is relevant because the Cooperative Hydrology Study ("COHYST") Model, discussed below, does not have modeling for all parts of Nebraska. In areas not covered by COHYST, NRD information analysis relating to integrated management areas was relied upon in order to determine the areas to be considered hydrologically connected for the relevant management purposes.

6. The preliminary map sent on July 13th to each NRD was based on data from the United States Geological Survey's Regional Aquifer Study Assessment. In the July 13, 2004 letters to the NRDs, the Department reserved the ability to utilize data from the COHYST Model, when available, in making the final designation, as such data was anticipated to be the best data available.
7. The COHYST Model is now available. The Department has examined the results of the current COHYST Model's 28/40 line. The Department determines that the current COHYST Model is the best data available for purposes of obtaining the 28/40 line.
8. The Department held public information meetings and public hearings for the purpose of collecting evidence and testimony concerning the final determination of certain NRDs as "fully appropriated" in their entirety. The public hearings were held in North Platte on August 31, 2004, in Sidney on September 1, 2004, and in Kearney on September 9, 2004. Prior to each hearing, Department personnel indicated that testimony could be given during the hearing on the extent of the area within which the surface water and groundwater supplies for the river basin, subbasin or reach are determined to be hydrologically connected for purposes of the overappropriated designation. The Department duly considered such testimony and evidence produced at the hearings.

It is therefore CONCLUDED that it is in the public interest to designate the Platte River Basin above the Kearney Canal Diversion, the North Platte River Basin, and the South Platte River Basin as overappropriated, and to designate the area within which surface water and ground water are hydrologically connected for purposes of the overappropriated designations.

It is therefore ORDERED that:

1. The Platte River Basin above the Kearney Canal Diversion, the North Platte River Basin including Pumpkinseed Creek, and the South Platte River Basin including Lodgepole Creek are hereby designated as overappropriated.
2. Surface water and ground water are determined to be hydrologically connected for purposes of the overappropriated designations in the area within the 28/40 line, based on data from the COHYST Model. It is further ordered that each full Public Land Survey System section, fifty percent or more of which is within the area having as its outer boundary the 28/40 line, shall be designated as hydrologically connected for purposes of the overappropriated designations. The legal description of the geographic area within

which the Department has determined that the surface water and ground water are hydrologically connected for purposes of the overappropriated designations is attached hereto as Appendix I. Appendix II attached hereto is a map showing the designated overappropriated basins and the geographic area within which the Department has determined that surface water and groundwater are hydrologically connected for purposes of the overappropriated designations.

3. Interested persons may petition the Department to reconsider the designation of the overappropriated basins, the determination of the geographic area within which the Department has determined that surface water and groundwater are hydrologically connected for purposes of the overappropriated designations, or the criteria used to make the determination of hydrologic connectivity for purposes of the overappropriated designations. The petition for reconsideration must clearly state the basis for such request. For sufficient cause shown, the Director may re-examine the action imposed by this Order at any time.

DEPARTMENT OF NATURAL RESOURCES

September 15, 2004


Roger K. Patterson, Director

Legal Description of the Geographic Area within which Surface Water and Ground Water are Hydrologically Connected for Purposes of the Overappropriated Designation

Township	Range	Sections
6 N	18 W	05,06,07,08,17,18
6 N	19 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18
6 N	20 W	01,02,03,04,05,06,10,11,12,13
7 N	18 W	05,06,07,08,17,18,19,20,29,30,31,32
7 N	19 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
7 N	20 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
7 N	21 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,17,18,22,23,24,25,26,36
7 N	22 W	01,02,03,04,05,06,07,08,10,11,12,13,17
8 N	18 W	04,05,06,07,08,09,17,18,19,20,29,30,31,32
8 N	19 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
8 N	20 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
8 N	21 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
8 N	22 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
8 N	23 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,22,23,24,25,26,27,35,36
8 N	24 W	01,02
9 N	18 W	29,30,31,32,33,34
9 N	19 W	25,26,31,32,33,34,35,36
9 N	20 W	31,32
9 N	21 W	17,18,19,20,21,22,26,27,28,29,30,31,32,33,34,35,36
9 N	22 W	03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
9 N	23 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
9 N	24 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,34,35,36
9 N	25 W	01,02,03,04,05,06,09,10,11,12,13,14,24
10 N	22 W	30,31,32
10 N	23 W	07,08,15,16,17,18,19,20,21,22,23,25,26,27,28,29,30,31,32,33,34,35,36
10 N	24 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
10 N	25 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
10 N	26 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,21,22,23,24,25,26,27,36
10 N	27 W	01,02,03,11,12
11 N	24 W	06,07,18,19,20,28,29,30,31,32,33,34
11 N	25 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
11 N	26 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
11 N	27 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,33,34,35,36
11 N	28 W	01,02,03,04,05,10,11,12,13,14

Township Range Sections

12 N	25 W	17,18,19,20,21,26,27,28,29,30,31,32,33,34,35,36
12 N	26 W	02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
12 N	27 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
12 N	28 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
12 N	29 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,21,22,23,24,25,26
12 N	30 W	01,02,03,04,05,06,08,09,10,11,12,13
12 N	31 W	01,02,03
12 N	39 W	03,04,05,06,07
12 N	40 W	01,02,03,04,05,06,07,08,09,10,11,12,14,15,16,17,18
12 N	41 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18
12 N	42 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24
12 N	43 W	01,02,03,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24
12 N	44 W	06,07,08,09,15,16,17,18,19,20,21,22,24
12 N	45 W	01,02,10,11,12,13,14,15,22,23,24
12 N	52 W	01,02,03,04,05,06,07,08,09,17,18,19,20
12 N	53 W	01,02,03,04,09,10,11,12
13 N	26 W	18,19,20,27,28,29,30,31,32,33,34,35
13 N	27 W	03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
13 N	28 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
13 N	29 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
13 N	30 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
13 N	31 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
13 N	32 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29
13 N	33 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,28,29,30
13 N	34 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30
13 N	35 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31
13 N	36 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,32,33,34,35,36
13 N	37 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30
13 N	38 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34
13 N	39 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
13 N	40 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
13 N	41 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
13 N	42 W	12,13,14,22,23,24,25,26,27,28,31,32,33,34,35,36
13 N	44 W	19,30,31,32
13 N	45 W	07,08,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,35,36
13 N	46 W	01,02,03,04,05,06,07,08,09,10,11,12,13
13 N	47 W	1
13 N	48 W	01,02,03,04,05,06
13 N	49 W	01,02,03,04,05,06
13 N	50 W	01,02,03,04,05,06,07,08,09,10,11,12,18,19
13 N	51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,28,29,30,31,32
13 N	52 W	01,02,03,04,09,10,11,12,13,14,22,23,24,25,26,27,28,31,32,33,34,35,36
14 N	27 W	30,31,32,33

Township Range Sections

14 N	28 W	16,17,18,19,20,21,22,23,25,26,27,28,29,30,31,32,33,34,35,36
14 N	29 W	03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	30 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	31 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	32 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	33 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	34 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	35 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	36 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	37 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	38 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	39 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	40 W	01,02,03,04,10,11,12,13,24,25,26,27,29,30,31,32,33,34,35,36
14 N	41 W	25,26,27,32,33,34,35,36
14 N	46 W	30,31,32,33,34
14 N	47 W	11,13,14,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	48 W	18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	49 W	13,24,25,26,27,28,29,30,31,32,33,34,35,36
14 N	50 W	07,17,18,19,20,21,25,26,27,28,29,30,31,32,33,34,35,36
14 N	51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,24,25,36
14 N	52 W	01,02,03,04,05,06,07,08,09,10,11,12,33,34,35,36
14 N	53 W	01,02,03,04,05,06,11,12
14 N	54 W	01,02,03,04
14 N	56 W	04,05,06
14 N	57 W	01,02,03,04,05,06
14 N	58 W	01,02,03,04,05,06,07,08,09,10,11,12,15,16,17,18,19,20,21,22
14 N	59 W	01,02,11,12,13,14
15 N	29 W	30,31,32
15 N	30 W	07,08,15,16,17,18,19,20,21,22,23,25,26,27,28,29,30,31,32,33,34,35,36
15 N	31 W	02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	32 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	33 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	34 W	01,02,03,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	35 W	13,14,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	36 W	17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	37 W	04,05,06,07,08,09,10,11,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	38 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	39 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	40 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	41 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,35,36
15 N	42 W	01,02,03,11,12,13,24
15 N	51 W	32,33
15 N	52 W	31,32,33

Township Range Sections

15 N	53 W	27,28,29,30,31,32,33,34,35,36
15 N	54 W	19,20,21,22,23,25,26,27,28,29,30,31,32,33,34,35,36
15 N	55 W	17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	56 W	21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
15 N	57 W	25,26,27,28,29,30,31,32,33,34,35,36
15 N	58 W	25,35,36
16 N	31 W	31,32
16 N	32 W	03,04,05,06,07,08,09,10,15,16,17,18,19,20,21,22,23,25,26,27,28,29,30,31,32,33,34,35,36
16 N	33 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
16 N	34 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,33,34,35,36
16 N	35 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,22,23,24,25
16 N	36 W	01,02,12
16 N	37 W	30,31,32
16 N	38 W	20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
16 N	39 W	19,20,25,26,27,28,29,30,31,32,33,34,35,36
16 N	40 W	07,08,09,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
16 N	41 W	07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
16 N	42 W	04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
16 N	43 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30
16 N	44 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,21,22,23,24,25
16 N	45 W	01,02,03,05,06,07,11,12,13
16 N	46 W	01,02,03,04,11,12
17 N	32 W	05,06,07,08,09,16,17,18,19,20,21,22,27,28,29,30,31,32,33,34
17 N	33 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
17 N	34 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
17 N	35 W	01,12,13,14,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
17 N	42 W	03,04,05,06,07,08,09,10,14,15,16,17,18,19,20,21,22,23,26,27,28,29,30,31,32,33,34
17 N	43 W	01,02,12,18,19,20,21,27,28,29,30,31,32,33,34,35,36
17 N	44 W	03,04,05,06,07,08,09,10,11,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
17 N	45 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
17 N	46 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,34,35,36
17 N	47 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,21,22,23,24,25,26
17 N	48 W	01,02,12
17 N	50 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18
17 N	51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18
17 N	52 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18
17 N	53 W	01,02,03,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
17 N	54 W	10,11,12,13,14,15,21,22,23,24,25,26,27,28,34,35,36
18 N	32 W	30,31,32
18 N	33 W	16,17,18,19,20,21,22,23,25,26,27,28,29,30,31,32,33,34,35,36
18 N	34 W	13,14,21,22,23,24,25,26,27,28,29,31,32,33,34,35,36
18 N	42 W	05,06,07,08,16,17,18,19,20,21,22,27,28,29,30,31,32,33,34
18 N	43 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,32,33,34,35,36

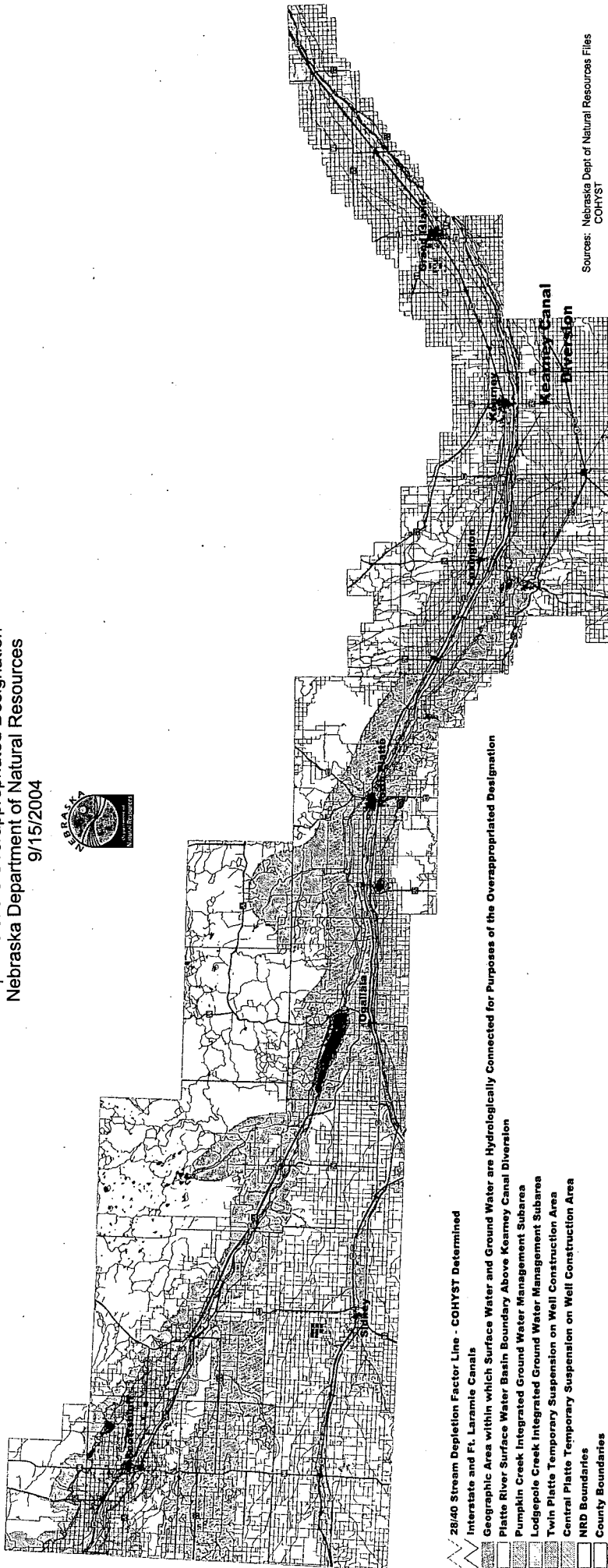
Township Range Sections

18 N	44 W	01,02,03,10,11,12,13,14,15,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34
18 N	45 W	07,08,09,10,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
18 N	46 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
18 N	47 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
18 N	48 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,34,35,36
18 N	49 W	01,02,12,13
18 N	50 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
18 N	51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
18 N	52 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
18 N	53 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,21,22,23,24,25,26,27,34,35,36
18 N	54 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23
18 N	55 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24
18 N	56 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24
18 N	57 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24
18 N	58 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34
19 N	42 W	31
19 N	43 W	05,06,07,08,09,15,16,17,18,19,20,21,22,23,25,26,27,28,29,30,31,32,33,34,35,36
19 N	44 W	01,02,03,04,05,08,09,10,11,12,13,14,15,16,17,20,21,22,23,24,25,26,27,28,33,34,35,36
19 N	47 W	29,30,31,32,33,34
19 N	48 W	04,05,06,07,08,09,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	49 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,33,34,35,36
19 N	50 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	51 W	01,02,03,11,12,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	52 W	16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	53 W	06,07,08,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	54 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	55 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	56 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	57 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
19 N	58 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
20 N	43 W	31
20 N	44 W	21,22,23,25,26,27,28,29,32,33,34,35,36
20 N	48 W	29,30,31,32
20 N	49 W	06,07,08,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
20 N	50 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
20 N	51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
20 N	52 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,32,33,34,35,36
20 N	53 W	01,02,03,06,11,12,13
20 N	54 W	31,32
20 N	55 W	16,17,18,19,20,21,22,25,26,27,28,29,30,31,32,33,34,35,36
20 N	56 W	04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
20 N	57 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
20 N	58 W	01,02,03,09,10,11,12,13,14,15,16,21,22,23,24,25,26,27,28,31,32,33,34,35,36

Township Range Sections

21 N	49 W	30,31,32
21 N	50 W	06,07,16,17,18,19,20,21,22,25,26,27,28,29,30,31,32,33,34,35,36
21 N	51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
21 N	52 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
21 N	53 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,32,33,34,35,36
21 N	54 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,23,24
21 N	55 W	01,02,07,08,11,12,13,14,16,17,18,19,20,21,22,23,24,28
21 N	56 W	10,11,12,13,14
21 N	57 W	04,05,31,32,33,34
21 N	58 W	36
22 N	51 W	18,19,20,26,27,28,29,30,31,32,33,34,35,36
22 N	52 W	02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
22 N	53 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
22 N	54 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
22 N	55 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,35,36
22 N	56 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,22,23,24,25,26
22 N	57 W	01,02,03,04,06,19,29,30,31,32
22 N	58 W	01,02,03,04,10,11,12,13,14,23,24,25
23 N	52 W	19,29,30,31,32,33
23 N	53 W	06,07,08,09,10,11,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
23 N	54 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
23 N	55 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
23 N	56 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
23 N	57 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
23 N	58 W	01,02,03,04,09,10,11,12,13,14,15,16,21,22,23,24,25,26,27,28,33,34,35,36
24 N	53 W	31
24 N	54 W	19,30,31,32,34,35,36
24 N	55 W	02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
24 N	56 W	01,02,03,04,05,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
24 N	57 W	04,05,06,07,08,09,10,11,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
24 N	58 W	01,02,03,04,09,10,11,12,13,14,15,16,21,22,23,24,25,26,27,28,33,34,35,36
25 N	55 W	29,30,31,32,33,34
25 N	56 W	25,26,27,34,35,36
25 N	57 W	05,06,07,08,16,17,18,19,20,21,22,27,28,29,30,31,32,33,34
25 N	58 W	01,02,11,12,13,14,23,24,25,26,35,36
26 N	57 W	05,06,07,08,09,16,17,18,19,20,21,28,29,30,31,32

Designation of the Geographic Area within which Surface Water and Ground Water are Hydrologically Connected for
 Purposes of the Overappropriated Designation
 Nebraska Department of Natural Resources
 9/15/2004



- 28/40 Stream Depletion Factor Line - COHYST Determined
- Interstate and Ft. Laramie Canals
- Geographic Area within which Surface Water and Ground Water are Hydrologically Connected for Purposes of the Overappropriated Designation
- Platte River Surface Water Basin Boundary Above Kearney Canal Diversion
- Pumpkin Creek Integrated Ground Water Management Subarea
- Lodgepole Creek Integrated Ground Water Management Subarea
- Twin Platte Temporary Suspension on Well Construction Area
- Central Platte Temporary Suspension on Well Construction Area
- NRD Boundaries
- County Boundaries
- Highways
- Roads
- Rivers and Streams
- Lakes

Sources: Nebraska Dept of Natural Resources Files
 COHYST

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Portion of the)	ORDER OF FINAL
Platte River Basin Upstream of)	DETERMINATION OF RIVER BASINS,
the Loup River Confluence,)	SUBBASINS, OR REACHES AS
the North Platte River Basin, and)	FULLY APPROPRIATED, AND DESCRIBING
the South Platte River Basin within)	HYDROLOGICALLY CONNECTED
the South Platte Natural Resources)	GEOGRAPHIC AREA
District, the Twin Platte Natural)	
Resources District and the Central)	
Platte Natural Resources District)	

This matter came on for consideration before the Director of the Department of Natural Resources (the "Department") pursuant to Section 54, subsection (5) of LB 962 (2004 Nebraska Legislature), codified at Neb. Rev. Stat. Section 46-714(5). That section requires the Department to: (1) notify the appropriate natural resources districts, within thirty days after the final hearing required by Section 46-714(4), of the Department's final determination as to whether a river basin, subbasin, or reach is fully appropriated; and (2) if the final determination is that the river basin, subbasin, or reach is fully appropriated, at the same time (a) decide whether to continue or to terminate the stays on new surface water uses and on increases in the number of surface water irrigated acres and (b) designate the geographic area within which the Department considers surface water and ground water to be hydrologically connected to the river basin, subbasin, or reach, and describe the methods and criteria used in making that determination.

The Director FINDS:

1. Prior to July 16, 2004, the Director of the Department made preliminary determinations, pursuant to subsection (2) of Neb. Rev. Stat. Section 46-656.28, as it existed prior to that date, that there was reason to believe that the use of hydrologically connected ground water and surface water in the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District, was contributing to or was in the reasonably foreseeable future likely to contribute to a conflict, dispute, or difficulty listed in such subsection. Each preliminary determination related to the entirety of the specific natural resources district. The preliminary determination was in response to the written request of each of these natural resources districts that the Department consult with and conduct studies on the natural resources district, and hold a hearing on the preparation of a joint action plan. Prior to July 16, 2004, the Director did not make a determination that a joint action plan should not be prepared, and the preparation of a joint action plan was not completed for any of the subject natural resources districts.

2. On July 16, 2004, the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District became subject to the provisions of subsection (3) of Section 60 of LB 962, codified at Neb. Rev. Stat. Section 46-720, and also Sections 53 to 59 of LB 962, codified at Neb. Rev. Stat. Sections 46-713 to 46-719.
3. Pursuant to Neb. Rev. Stat. Section 46-713, the Department duly provided notices to the public of its preliminary determinations that the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District were each fully appropriated in their entirety.
4. The Department and each of the referenced natural resources districts sent letters as follows:
 - a. Letter dated August 11, 2004 from the Department and the South Platte Natural Resources District;
 - b. Letter dated August 11, 2004 from the Department and the Twin Platte Natural Resources District;
 - c. Letter dated August 11, 2004 from the Department and the Central Platte Natural Resources District.

The appropriate letter which was sent to each irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach, and to other water users and stakeholders deemed appropriate by the Department or the affected natural resources district. Each letter offered the recipient the opportunity to consult with the Department and the appropriate natural resources district on the question as to whether the Department should make a final determination that the portion of the Platte, North Platte or South Platte Basin within that district is fully appropriated. The Department received, and duly considered, letters in response to the request for consultation.

5. The Department issued notice of, and held, two public information meetings in each natural resources district, as follows:
 - a. South Platte Natural Resources District public information meetings were held on August 25, 2004, and September 1, 2004.
 - b. Twin Platte Natural Resources District public information meetings were held on August 26, 2004, and August 31, 2004.

- c. Central Platte Natural Resources District public information meetings were held on August 27, 2004, and September 9, 2004.
6. Pursuant to statute, the Department issued notice of, and held, public hearings in each natural resources district, as follows:
 - a. South Platte Natural Resources District public hearing was held on September 1, 2004.
 - b. Twin Platte Natural Resources District public hearing was held on August 31, 2004.
 - c. Central Platte Natural Resources District public hearing was on September 9, 2004.
7. 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.
8. A transcript was made for each public hearing, and the Department duly considered the testimony and evidence produced at the hearings.
9. In 1997, the States of Nebraska, Wyoming, and Colorado and the U.S. Department of the Interior signed the Cooperative Agreement for Platte River Research and Other Efforts Relating to Endangered Species Habitats Along the Central Platte River, Nebraska (the "Cooperative Agreement"). Pursuant to the Cooperative Agreement, Nebraska has prepared the Nebraska New Depletion Plan (the "New Depletion Plan"), a purpose of which is to describe the actions Nebraska proposes to take to prevent or mitigate for new depletions to the extent those new depletions are caused by new and expanded uses of water begun since the date of July 1, 1997.
10.
 - a. On February 27, 1979, by a memorandum to staff, the Director of the Department of Water Resources (now the Department of Natural Resources) ordered staff to deny all applications for natural flow for consumptive purposes in the Lodgepole Creek basin.
 - b. On December 13, 1979, the Director of the Department of Water Resources issued another memorandum to staff directing them to deny all applications for the direct use of natural flow from Pumpkinseed Creek and tributaries for irrigation purposes.
 - c. Through actions taken since approximately 1993, the Department of Natural Resources has effectively maintained other informal moratoriums through its discussions with possible applicants and through its orders regarding applications filed in the North

Platte River and its tributaries, the South Platte River and its tributaries, and the Platte River and its tributaries above the mouth of the Loup River.

- d. On July 14, 2004, the Department issued an Order Declaring Formal Moratorium on the issuance of new surface water appropriations in the Platte River Basin above the mouth of the Loup River, the North Platte River Basin, and the South Platte River Basin.
 - e. Numerous new wells have been registered with the Department since the Department stopped issuing surface water rights as described in this Section.
 - f. Departmental administration would have occurred frequently during the previous twenty years in the Platte River Basin upstream of the confluence with the Loup River, and in the North Platte River Basin and the South Platte River Basin if the surface water rights existing on July 16, 2004, had been in existence during the previous twenty years
11. a. South Platte Natural Resources District ordered a temporary suspension of well construction for all of the South Platte Natural Resources District, except for the Lodgepole Creek integrated management subarea, which temporary suspension took effect on January 14, 2004. The moratorium for the Lodgepole Creek integrated management subarea took effect on November 7, 2002.
- b. Twin Platte Natural Resources District ordered a temporary suspension of well construction in a portion of the natural resources district; that temporary suspension took effect July 1, 2004.
- c. Central Platte Natural Resources District ordered a temporary suspension of well construction in a portion of the natural resources district; that temporary suspension took effect November 20, 2003.
12. The method used to determine the hydrological connection for purposes of the final fully appropriated determination was to review and evaluate available and relevant data from the United States Geological Survey, the University of Nebraska Conservation and Survey Division, the data used in the development of the Cooperative Hydrology Study ("COHYST") Model, and other information that was included in the record of the public hearings referenced in finding Number 6 above.
13. In determining the hydrologically connected areas for purposes of the final fully appropriated determination, consideration was given to the following criteria:

- a. the boundaries of the area for which each of the natural resources districts initiated the joint action planning process under previous Section 46-656.28, which in the case of each of the natural resources districts was all areas within such natural resources district's boundaries; and
- b. the extent to which the methods used to determine hydrologic connectivity demonstrated that withdrawal of ground water from within the area would, at some future time, impact the surface water supply of the fully appropriated basin.

It is therefore CONCLUDED that it is in the public interest to (1) make a final determination that the portions of each of the Platte River Basin upstream of the Loup River confluence, the North Platte River Basin, and the South Platte River Basin within each of the South Platte Natural Resources District, the Twin Platte Natural Resources District and the Central Platte Natural Resources District 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 each of the Platte River Basin upstream of the Loup River confluence, the North Platte River Basin and the South Platte River Basin that are within each of the South Platte Natural Resources District, the Twin Platte Natural Resources District and the Central Platte Natural Resources District 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 provisions of Section 46-720 and the Department's July 16, 2004, 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. To the extent the geographic area subject to such stays is now within the land area designated as the overappropriated basin on September 15, 2004, or within the land area considered to be hydrologically connected for purposes of the overappropriated designation, such stays shall continue in effect as stays for that overappropriated basin and area considered to be hydrologically connected for purposes of the overappropriated designation.

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 of the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District. Because none of the geographic area subject to the Department's preliminary determination of fully appropriated is excluded from the area for which this final determination is made, 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 Section 46-714.

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, the North Platte River Basin and the South Platte River Basin within the South Platte Natural Resources District, the Twin Platte Natural Resources District and the Central Platte Natural Resources District 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 re-examine the action imposed by this Order at any time.

DEPARTMENT OF NATURAL RESOURCES



Roger K. Patterson, Director

September 30, 2004

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the)
Hat Creek Basin, the White)
River Basin, the Portion of the)
Niobrara River Basin Upstream of)
the Mirage Flats Diversion Dam,)
the Box Butte Creek Subbasin and)
the Snake Creek Subbasin)

ORDER OF FINAL
DETERMINATION OF RIVER BASINS,
SUBBASINS, OR REACHES AS
FULLY APPROPRIATED, AND
DESCRIBING HYDROLOGICALLY
CONNECTED GEOGRAPHIC AREA

This matter came on for consideration before the Director of the Department of Natural Resources (the "Department") pursuant to Section 54, subsection (5) of LB 962 (2004 Nebraska Legislature), codified at Neb. Rev. Stat. Section 46-714(5). That section requires the Department to: (1) notify the appropriate natural resources districts, within thirty days after the final hearing required by Section 46-714(4), of the Department's final determination as to whether a river basin, subbasin, or reach is fully appropriated; and (2) if the final determination is that the river basin, subbasin, or reach is fully appropriated, at the same time (a) decide whether to continue or to terminate the stays on new surface water uses and on increases in the number of surface water irrigated acres and (b) designate the geographic area within which the Department considers surface water and ground water to be hydrologically connected to the river basin, subbasin, or reach, and describe the methods and criteria used in making that determination.

The Director FINDS:

1. Prior to July 16, 2004, the Director of the Department made a preliminary determination, pursuant to subsection (2) of Neb. Rev. Stat. Section 46-656.28, as it existed prior to that date, that there was reason to believe that the use of hydrologically connected ground water and surface water in the Upper Niobrara White Natural Resources District was contributing to or was in the reasonably foreseeable future likely to contribute to a conflict, dispute, or difficulty listed in such subsection. The preliminary determination related to the entirety of the natural resources district. The preliminary determination was in response to the written request of the Upper Niobrara White Natural Resources District dated January 10, 2003, that the Department consult with and conduct studies on the natural resources district, and hold a hearing on the preparation of a joint action plan. Prior to July 16, 2004, the Director did not make a determination that a joint action plan should not be prepared, and the preparation of a joint action plan was not completed for the Upper Niobrara White Natural Resources District.
2. On July 16, 2004, the Upper Niobrara White Natural Resources District became subject to the provisions of subsection (3) of Section 60 of LB 962, codified at Neb.

Rev. Stat. Section 46-720, and also Sections 53 to 59 of LB 962, codified at Neb. Rev. Stat. Sections 46-713 to 46-719.

3. Pursuant to Neb. Rev. Stat. Section 46-713, on July 16, 2004, the Department duly provided notice to the public of its preliminary determination that the Upper Niobrara White Natural Resources District was fully appropriated in its entirety.
4. The Department and the Upper Niobrara White Natural Resources District sent a letter dated September 16, 2004 to each irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach, and to other water users and stakeholders deemed appropriate by the Department or the natural resources district. Each letter offered the recipient the opportunity to consult with the Department and the natural resources district on the question as to whether the Department should make a final determination that the natural resources district is fully appropriated, and the extent to which the natural resources district is fully appropriated. The Department received, and duly considered, correspondence in response to the request for consultation.
5. The Department issued notice of, and held, two public information meetings in the natural resources district: one on October 1, 2004, and the second on October 4, 2004.
6. Pursuant to statute, the Department issued notice of, and held, a public hearing in the Upper Niobrara White Natural Resources District on October 4, 2004.
7. Public testimony was taken at the public hearing, and the record in the public hearing was held open for one full week following the date of the public hearing, in order to allow the receipt of any additional written testimony into the record.
8. A transcript was made for the public hearing, and the Department duly considered the testimony and evidence produced at the hearings.
9. The Department's method consisted of reviewing, evaluating, and analyzing information, including the surface water records and well registration records of the Department, published maps and reports by the United States Geological Survey and the University of Nebraska Conservation and Survey Division, all relevant portions of the Upper Niobrara White Natural Resources District's Ground Water Management Plan, other information that was included in the record of the public hearing referenced in finding Number 6 above, and reports of and communications with Department hydrographers and researchers at the University of Nebraska Conservation and Survey Division. This resulting information provides a reliable basis for the final

determination of the river basins, subbasins and reaches that are fully appropriated and the description of the geographic area that is hydrologically connected to these river basins, subbasins and reaches for the purposes of this determination.

10. On November 30, 1990, the Department declared a formal moratorium on the issuance of new surface water appropriations in the Niobrara River Basin from the Nebraska-Wyoming state line downstream to the headgate of the Mirage Flats Canal. The moratorium included all applications to use natural flow for irrigation, storage, and other beneficial uses. The Order states that the Department shall not approve any applications for permits for new water appropriations on this stream reach while the moratorium remains in effect. Any interested person may petition the Department to reconsider the moratorium designation.
11. Since 1995, the Department has effectively maintained an informal moratorium through its discussions with possible applicants, its orders regarding applications filed, and its denial of applications in the White River Basin and Hat Creek Basin that would reduce the natural flow of the stream. This informal moratorium was based on the lack of flow existing in most locations of the basins and the number of old water rights that do not receive the full allotment allowed under their appropriations. Applicants were given opportunity to request a hearing to prove that unappropriated water was available.
12. On July 14, 2004, the Department issued an Order Declaring Formal Moratorium on the issuance of new surface water appropriations in the White River Basin including all subbasins, and the Hat Creek Basin including all subbasins.
13. The Upper Niobrara White Natural Resources District ordered a temporary suspension of well construction for all of the Upper Niobrara White Natural Resources District, which temporary suspension took effect on March 20, 2003.
14. According to Department records:
 - a. Surface water rights in the Hat Creek Basin and the White River Basin are administered in most years;
 - b. Each year since 1957, the Niobrara River is administered to meet the 1937 water right on the Mirage Flats Canal;
 - c. Annual average reach gains on the Niobrara River between the state line and the Box Butte Reservoir have declined significantly since 1956;
 - d. Canal diversion records show that diversions to the Mirage Flats Canal between 1976 and 2003 averaged 19

percent less per year than during the 1948 - 1975 time period.

- e. There is no record of administration for surface water rights on the Niobrara River and its tributaries below the Mirage Flats Diversion Dam, excluding Box Butte Creek, and there is no evidence that stream flow below the diversion dam is insufficient to supply the existing surface water rights.
 - f. Administration on Box Butte Creek and Snake Creek has not occurred since the 1970's but this may be because there is currently little flow to administer and because adjudications by the Department have resulted in a significant decrease in the number of rights on each creek.
15. Records of well registrations at the Department show numerous new ground water wells have been registered with the Department since the Department stopped issuing surface water rights.
16. Published reports by the United States Geological Survey and the University of Nebraska Conservation and Survey Division indicate that:
- a. The ground water reservoirs in the White River Basin and Hat Creek Basin are limited to fractures in the otherwise relatively impermeable subsurface materials. Some, though not necessarily all, of these fractures are connected to the White River or Hat Creek.
 - b. The principal ground water aquifers in the Upper Niobrara Basin, the Arikaree Group and the Ogallala Group, are in hydrological connection to the Niobrara River. Box Butte Creek and Snake Creek in the 1930's and 1940's were in part perennial streams that had base flow from ground water. Ground water in these aquifers generally moves in an easterly direction toward the perennial streams except in the southeastern portion of the district. Ground water table declines of up to fifty or more feet have occurred in these ground water reservoirs in Box Butte County.
17. In determining the hydrologically connected areas for purposes of the final fully appropriated determination, consideration was given to the following criteria:
- a. the boundaries of the area for which the Upper Niobrara White Natural Resources District initiated the joint action planning process under previous Section 46-656.28, which was all areas within the natural resources district's boundaries;
 - b. the location of the tributaries to the streams determined to be fully appropriated, an analysis of the

impact of wells on these tributaries, the location of the subsurface geologic formations, and the location of the ground water table divides and surface watershed divides;

- c. the extent to which the methods used to determine hydrologic connectivity demonstrated that withdrawal of ground water from within the area would, at some future time, impact the surface water supply of the fully appropriated basin or subbasins.

It is therefore CONCLUDED that it is in the public interest to (1) make a final determination that the Hat Creek Basin, the White River Basin, the portion of the Niobrara River Basin above the Mirage Flats Diversion Dam (SE¹/₄ of Section 26, Township 29 North, Range 48 West of the 6th P.M. in Dawes County), Box Butte Creek Subbasin, and Snake Creek Subbasin are fully appropriated, (2) to continue the stays on new surface water uses and on increases in the number of surface water irrigated acres in the area determined to be fully appropriated, (3) to discontinue the stays on new surface water uses and on increases in the number of surface water irrigated acres in the area that is no longer determined to be fully appropriated, and, (4) to designate the area within which surface water and ground water are hydrologically connected for purposes of the final determination of fully appropriated.

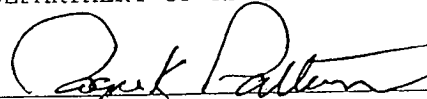
It is therefore ORDERED that:

1. The Hat Creek Basin, the White River Basin, the portion of the Niobrara River Basin above the Mirage Flats Diversion Dam (SE¹/₄ of Section 26, Township 29 North, Range 48 West of the 6th P.M. in Dawes County), Box Butte Creek Subbasin, and Snake Creek Subbasin 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 provisions of Section 46-720 and the Department's July 16, 2004 preliminary determination that the affected natural resources district was fully appropriated, are continued in the areas determined to be fully appropriated, and discontinued in the area of the Upper Niobrara White Natural Resources District that is no longer determined to be fully appropriated as a result of this determination. The stays that are continued as a result of this determination 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 legal description of 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 is attached hereto as Appendix I. Appendix II attached hereto is a map showing the area determined to be fully appropriated, and the hydrologically connected area to the fully appropriated basins and subbasins. The stays on the construction of new water wells and on increases in acres irrigated with ground water will remain in effect for the hydrologically connected areas, unless terminated by the Upper Niobrara White Natural Resources District pursuant to subsections (7) and (8) of Section 46-714. The stays on the construction of new water wells and on increases in acres irrigated with ground water are discontinued in the area of the Upper Niobrara White Natural Resources District that is not within the hydrologically connected area. This does not negate any independent action taken by the natural resources district.

4. Interested persons may petition the Department for a rehearing to reconsider the final determination that: 1) the Hat Creek Basin, the White River Basin, the portion of the Niobrara River Basin above the Mirage Flats Diversion Dam (SENW of Section 26, Township 29 North, Range 48 West of the 6th P.M. in Dawes County), the Box Butte Creek Subbasin, and the Snake Creek Subbasin are hereby determined to be fully appropriated, 2) 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 are as designated, or 3) 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 re-examine the action imposed by this Order at any time.

DEPARTMENT OF NATURAL RESOURCES



Roger K. Patterson, Director

November 3, 2004

Legal Description of the Geographic Area within which Ground Water is Hydrologically Connected to Surface Water for Purposes of the Fully Appropriated Determination in the Upper Niobrara White NRD

Township Range Sections

		<i>County:</i>	<i>Dawes County</i>
29	N 47 W	24,25,26,27,28,29,30,31,32,33,34,35,36	
29	N 48 W	05,06,07,08,09,15,16,17,18,19,20,21,22,25,26,27,28,29,30,31,32,33,34,35,36	
29	N 49 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
29	N 50 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
29	N 51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
29	N 52 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
30	N 48 W	30,31,32	
30	N 49 W	03,04,05,06,07,08,09,10,11,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
30	N 50 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
30	N 51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
30	N 52 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
31	N 47 W	05,06	
31	N 48 W	01,02,03,04,05,06,07,08,09,10,11,17,18,19,20	
31	N 49 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,28,29,30,31,32,33	
31	N 50 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
31	N 51 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
31	N 52 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
32	N 47 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32	
32	N 48 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	
32	N 49 W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36	

Township Range Sections

32	N	50	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
32	N	51	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
32	N	52	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
33	N	47	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
33	N	48	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
33	N	49	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
33	N	50	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
33	N	51	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
33	N	52	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	47	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	48	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	49	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	50	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	51	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	52	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
35	N	47	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
35	N	48	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
35	N	49	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
35	N	50	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
35	N	51	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
<i>County:</i>				<i>Sheridan County</i>
24	N	46	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,20,21,22,23,24,25,26,27,28,29,32,33,34,35,36
25	N	45	W	06,07,18,19,30,31
25	N	46	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
26	N	45	W	06,07,18,19,30,31
26	N	46	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
27	N	45	W	06,07,18,19,30,31
27	N	46	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36

Township Range Sections

28	N	45	W	06,07,18,19,30,31
28	N	46	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
29	N	45	W	19,29,30,31,32
29	N	46	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
32	N	45	W	01,02,03,04,05,06,07,08,09,10,11,12,18
32	N	46	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,28,29,30
33	N	43	W	03,04,05,06,07,08,09,16,17,18,19,20,21,28,29,30,31,32,33
33	N	44	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
33	N	45	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
33	N	46	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	42	W	05,06,07,08,17,18
34	N	43	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34
34	N	44	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	45	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
34	N	46	W	01,02,03,04,05,06,07,08,09,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
35	N	42	W	19,20,29,30,31,32
35	N	43	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
35	N	44	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36
35	N	45	W	19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36

Footnotes:

The Geographic Area also includes:

All of the land area within that portion of Sioux County within the boundaries of the Upper Niobrara White NRD and all of the land area within Box Butte County.

In Dawes County only those portions of sections 25, T29N, R48W and 24-30, T29N, R47W and in Sheridan County only those portions of sections 19, T29N, R45W and 19-24, T29N, R46W south of the right bank of the Niobrara River.

NEWS RELEASE

Nebraska Department of Natural Resources

301 Centennial Mall South - P.O. Box 94676 - Lincoln, Nebraska 68509-4676 - (402) 471-2363

RELEASE DATE: September 30, 2004

FOR MORE INFORMATION CONTACT: Tina Kurtz
Nebraska Dept. of Natural Resources
402-471-1697

Designation of Fully Appropriated River Basins, Subbasins, or Reaches Pursuant to LB 962

The Department of Natural Resources has issued an Order of Final Determination of River Basins, Subbasins, or Reaches as Fully Appropriated, pursuant to Legislative Bill 962, the new law on the integrated management of surface water and ground water.

The Department's Order makes a final determination that the portions of each of the Platte River Basin upstream of the Loup River confluence, the North Platte River Basin, and the South Platte River Basin within each of the South Platte Natural Resources District, the Twin Platte Natural Resources District and the Central Platte Natural Resources District are fully appropriated. The Order states that the Department has determined ground water to be hydrologically connected to the surface water for purposes of the final fully appropriated determination in the entire geographic area of the South Platte Natural Resources District, the Twin Platte Natural Resources District, and the Central Platte Natural Resources District. As a result of the Order, stays that became effective on July 16, 2004 and July 26, 2004, on new uses of surface water and ground water within the areas described in the Order, were continued.

At this point, the Department and each of the affected local Natural Resources Districts must jointly develop an integrated management plan for surface and ground water use. The integrated management plan must include clear goals and objectives, a map delineating the geographic area subject to the plan, ground water controls, and surface water controls consistent with the requirements of LB 962. In developing an integrated management plan, the effects of existing and potential new water uses on existing surface water appropriators and ground water users must be considered.

LB 962 became effective on July 16, 2004. Under this law the Nebraska Department of Natural Resources (Department) is still responsible for the administration of surface water rights and the Natural Resources Districts (NRDs) are still responsible for administering ground water uses.

On July 16, the Department provided notice to the South Platte NRD, Central Platte NRD, and Twin Platte NRD that the Department had made a preliminary determination that each of those districts is fully appropriated in its entirety.

NEWS RELEASE

Nebraska Department of Natural Resources

301 Centennial Mall South - P.O. Box 94676 - Lincoln, Nebraska 68509-4676 - (402) 471-2363

RELEASE DATE: September 15, 2004

FOR MORE INFORMATION CONTACT: Tina Kurtz
Nebraska Dept. of Natural Resources
402-471-1697

Designation of Overappropriated River Basins, Subbasins, or Reaches Pursuant to LB 962

The Department of Natural Resources has issued an Order Designating Overappropriated River Basins, Subbasins, or Reaches, pursuant to Legislative Bill 962, the new law on the integrated management of surface water and ground water.

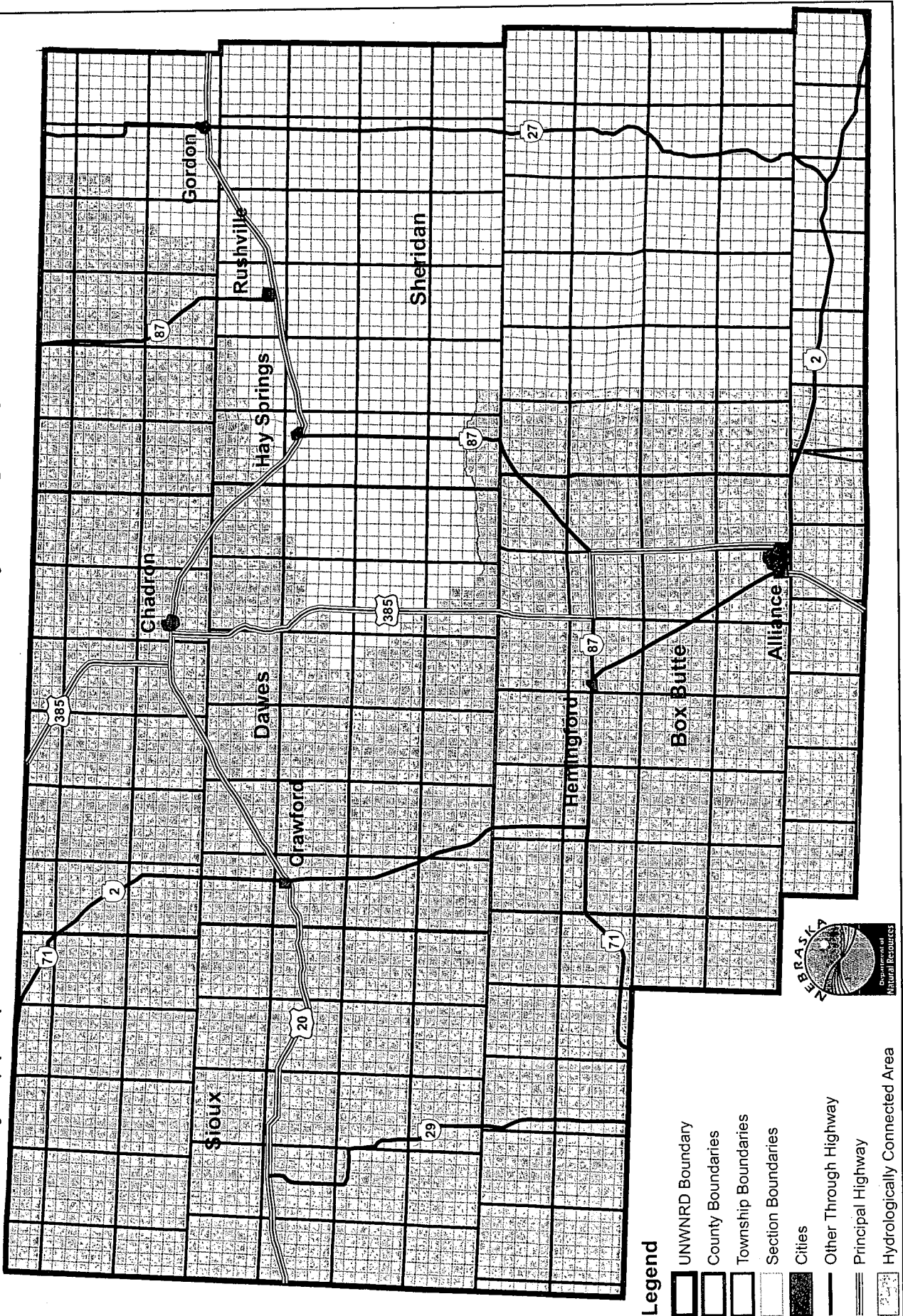
The Department's Order designates the Platte River Basin above the Kearney Canal Diversion, the North Platte River Basin, including Pumpkinseed Creek, and the South Platte River Basin, including Lodgepole Creek as overappropriated. The Order includes a description of the geographic area within which the Department has determined that surface water and ground water are hydrologically connected for purposes of the overappropriated designations, and the criteria used to make that determination. As a result of the Order, stays will become effective on September 25, 2004, on new uses of surface water and ground water within the areas described in the Order.

At this point, the Department and each of the affected local Natural Resources Districts must jointly develop an integrated management plan for surface and ground water use. The first stage of an integrated management plan is to bring existing uses of ground water and surface water into line with uses as of July 1, 1997.









LB 962 became effective on July 16, 2004. Under this law the Nebraska Department of Natural Resources (Department) is still responsible for the administration of surface water rights and the Natural Resources Districts (NRDs) are still responsible for administering ground water uses.

Previous to July 16, the Department advised the North Platte NRD, South Platte NRD, Central Platte NRD, Twin Platte NRD, and Tri Basin NRD that certain portions of each of those districts were under consideration to be designated as overappropriated in September of 2004.

Upper Niobrara White Natural Resources District Fully Appropriated Area and Associated Hydrologically Connected Area



Legend

-  UNWRD Boundary
-  County Boundaries
-  Township Boundaries
-  Section Boundaries
-  Cities
-  Other Through Highway
-  Principal Highway
-  Hydrologically Connected Area



