

General Manager's Affidavit McCook Daily Gazette

STATE OF NEBRASKA
Red Willow County

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JAN 7 2005
DEPARTMENT OF
NATURAL RESOURCES



1 On July 16, 2004, the Department published a Notice that the Middle Republican Natural Resources District (the "MRNRD") was fully appropriated (the "Notice").

2 As a consequence of the Notice, the Department and the MRNRD were required to jointly develop an integrated management plan for the fully appropriated river basin, subbasin, or reach. The Department and the MRNRD duly considered the relevant scientific data and other information as set forth in Department and MRNRD rules and regulations, and also the results of consultation and public comment as required by Neb. Rev. Stat. § 46-717 (Reissue 2004).

3 The MRNRD and the Department engaged in joint development of the integrated management plan and reached agreement on (a) the proposed goals and objectives of the plan for the affected river basin, subbasin, or reach; (b) the proposed geographic area to be subject to controls; and (c) the surface water and ground water controls and any incentive programs that are proposed for adoption and implementation in the river basin, subbasin, or reach.

4 On October 6, 2004, pursuant to a notice duly published pursuant to Neb. Rev. Stat. § 46-743 (Reissue 2004), a public hearing on the proposed integrated management plan and associated controls was held.

5 Subsequent to the public hearing, the Department and the MRNRD jointly determined to implement the integrated management plan with modifications, and to adopt and implement the surface water and ground water controls and incentive programs proposed in the integrated management plan.

6 The surface water controls included in the joint integrated management plan are as follows:

A. The Department will do the following additional surface water administration as required by the Settlement Agreement approved by the United States Supreme Court in *Kansas v. Nebraska*, No. 126, Original (the "Settlement"):

1. To provide for regulation of natural flow between Harlan County Lake and Superior-Courtland Diversion Dam, Nebraska will recognize a priority date of February 26, 1948 for Kansas Bostwick Irrigation District, the same priority date as the priority date held by the Nebraska

have such permits. Such reservoirs may be identified through the Settlement required inventory of over 15 acre-foot reservoirs or otherwise.

D. All proposed transfers of surface water rights shall be subject to the revised criteria for such transfers as found in Neb. Rev. Stat. § 46-290 to 46-294.04 (Reissue 2004) or the criteria found in Neb. Rev. Stat. § 46-2120 to 46-2130 (Reissue 2004).

E. Within the MRNRD, the Department completed the adjudication process for the individual appropriators in the Republican River Basin in 2004. The results of that adjudication provide 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 Department to monitor use of surface water and to make sure that unauthorized irrigation is not occurring. The Department also will be proactive in initiating subsequent adjudications whenever information available to the Department indicates that there are water rights that are not being used and for which no known sufficient cause for such non-use exists.

F. At this time, due to the already limited availability of surface water supplies, the Department will not require that surface water appropriators apply or utilize additional conservation measures or that they be subject to other new restrictions on surface water use. However, the Department reserves the right to request, in the future, that this integrated management plan be modified to require any such additional measures. In the event such a request is made, the Department will allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days, unless extended by the Department, to identify the conservation measures to be applied or utilized; to develop a schedule for such application and utilization; and to comment on any other proposed restrictions. (Neb. Rev. Stat. § 46-716(2), (Reissue 2004)).

7 On November 9, 2004, the MRNRD issued an Order adopting the integrated management plan and the ground water related controls included in the plan (the "MRNRD Order"). The MRNRD Order included a geographic and stratigraphic definition of the designated integrated management subarea, and included the integrated management plan as an attachment.

Sharyn Skiles, being first duly sworn, deposes and says that she is the General Manager of The McCook Daily Gazette, a legal newspaper published daily except Sunday, at McCook, Red Willow County, Nebraska; and of general circulation in said county; that said newspaper, at the time of publication of the attached notice had a bona fide circulation of not less than three hundred copies each daily issue, and had been published within said county for fifty-two consecutive weeks prior to the beginning of the publication of the attached notice; and that said newspaper is printed in whole in an office maintained at the place of publication. Affiant further says that a notice, of which the attached is a true copy, was published in the regular and entire issue of said newspaper, and not in supplement, on the following date:

12-21	20 04	20
12-28	20 04	20
1-04	20 05	20
	20	20
	20	20
	20	20

Sharyn Skiles

Subscribed in my presence and sworn to before me this 5 day of Jan 20 05

Jean Kirkus

GENERAL NOTARY - State of Nebraska
JEAN KIRKUS
My Comm. Exp. June 24, 2006
Notary Public

PUBLISHER'S FEE \$ 305.93

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STATE OF NEBRASKA
DEPARTMENT OF
NATURAL RESOURCES

In the Matter of the
Middle Republican Natural
Resources District Integrated
Management Plan.)

ORDER
ADOPTING INTEGRATED
MANAGEMENT PLAN AND
ASSOCIATED SURFACE
WATER CONTROLS

This matter came on for considera-
tion before the Director of the De-
partment of Natural Resources (the
"Department") pursuant to Neb.
Rev. Stat. §§ 46-715, 46-716, 46-
717, 46-718, and 46-720 (Reissue
2004), which require the affected
natural resources district and the
Department to jointly develop an in-
tegrated management plan for a
fully appropriated river basin, sub-
basin, or reach, and associated con-
trols.

The Director FINDS:

land Canal water right.
2. When water is needed for di-
version at Guide Rock and the pro-
jected or actual irrigation supply is
less than 130,000 acre-feet of stor-
age available for use from Harlan
County Lake as determined by the
Bureau of Reclamation using the
methodology described in Harlan
County Lake Operation Consensus
Plan attached as Appendix K to the
Settlement Agreement, Nebraska
will close junior and require com-
pliance with senior natural flow di-
versions of surface water between
Harlan County Lake and Guide
Rock.

3. Nebraska will protect storage
water released from Harlan County
Lake for delivery at Guide Rock
from surface water diversions.

4. Nebraska in concert with Kan-
sas and in collaboration with the
United States and in the manner de-
scribed in Appendix E to the Settle-
ment Agreement will take actions
to minimize the bypass flows at Su-
perior Courtland Diversion Dam.

B. 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 Rec-
lamation project, farm turnouts also
will be required to be metered by
the start of the 2005 irrigation sea-
son. All meters shall have a totalizer
and shall meet Department stand-
ards 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.

C. The Department's moratorium
on the issuance of new surface wa-
ter permits was made formal by or-
der of the Director dated July 15,
2004 and will be continued. Excep-
tions may be granted to the extent
permitted by Neb. Rev. Stat. § 46-
714(3) (Reissue 2004) or to allow
issuance of permits for existing res-
ervoirs that currently do not now

the Department of Natural Resour-
ces should adopt the integrated
management plan and associated
surface water controls included in
the integrated management plan.

It is therefore ORDERED that the
integrated management plan for the
Middle Republican Natural Resour-
ces District, and associated surface
water controls included therein, as
adopted by the Middle Republican
Natural Resources District on No-
vember 9, 2004, are hereby adopted
by the Department.

This Order shall become effective
on January 18, 2005, pursuant to
Neb. Rev. Stat. § 46-744 (Reissue
2004).

DEPARTMENT OF
NATURAL RESOURCES
December 16, 2004
Roger K. Patterson, Director

For the full text of the Integrated
Management Plan for the Middle
Republican Natural Resources Dis-
trict and associated controls please
refer to the Department's web site at
[http://www.dnr.state.ne.us/EB962/
MgtPlans/MRNRD/MRNRDPlan
html](http://www.dnr.state.ne.us/EB962/MgtPlans/MRNRD/MRNRDPlan.html) or contact the Department of
Natural Resources, P.O. Box 94676,
Lincoln, Nebraska 68509-4676,
(402) 471-2363 or the Middle Re-
publican Natural Resources District.

Publish: December 21, 28, 2004 and
January 4, 2005.

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