State of Nebraska

Department of Natural Resources

Order for Temporary Stay on Surface Water Appropriations in the

Middle Niobrara Natural Resources District

On June 29, 2015, the Middle Niobrara Natural Resources District (MNNRD) pursuant to *Neb. Rev. Stat.* § 46-707(2) placed an immediate 180-day temporary stay on the addition of irrigated groundwater acres. The temporary stay applied to the areas contained within the boundaries of the MNNRD.

By letter dated June 9, 2015, the MNNRD requested that the Department of Natural Resources (Department) place an immediate temporary stay on the issuance of new surface water appropriations during the same time period.

*Nebraska Revised Statute* § 2-32,115 authorizes the Department to place an immediate temporary stay without prior written notice or hearing on the issuance of new surface water natural flow appropriations for up to 180 days in any area included in a temporary stay determined necessary by a natural resources district in accordance with *Neb. Rev. Stat.* § 46-707(2). On June 26, 2015, the Department issued an Order for a temporary stay on the new surface water appropriations for irrigation effective June 29, 2015, through December 25, 2015.

As required pursuant to *Neb. Rev. Stat.* § 2-32,115(2), the Department held a public hearing in Valentine, Nebraska, on November 9, 2015, to take testimony regarding the temporary stay. Notice of the hearing was given per the requirements of *Neb. Rev. Stat.* § 46-743.

The Department has reviewed the testimony from the public hearing and determined pursuant to *Neb. Rev. Stat.* § 2-32,115(3) to continue the stay until the earlier of 1) such time that an order is issued and effective to implement the surface water controls contained in an Integrated Management Plan (IMP) between the Middle Niobrara Natural Resources District and the Department, which is currently under development, or 2) until the end of the day on February 3, 2017, three years after the Department acknowledged the MNNRD request for IMP planning.

It is therefore ORDERED:

1. Effective December 26, 2015, the temporary stay currently in place on the issuance of any new surface water irrigation acres in areas contained within the boundaries of the MNNRD is continued. Exceptions to the stay include, but are not necessarily limited to:

   A. Appropriations for new surface water uses to which a right or permit is transferred in accordance with State law, but the consumptive use of any such new use can be no greater than the historic consumptive use of the surface water use from which the right or permit is being transferred, and

   B. New surface water natural flow appropriations that are necessary to alleviate an emergency situation involving the provision of water for human consumption, public health or safety.

2. The stay shall run until such time that the surface water controls contained in the Middle Niobrara Integrated Management Plan have been implemented through an effective order of the Department.

DEPARTMENT OF NATURAL RESOURCES

December 22, 2015

Gordon W. Fassett, P.E., Director

Any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing in accordance with the *Neb. Admin. Procedures Act (Neb. Rev. Stat.* §§ 84-901 et. seq.) and the Department's *Rules of Practice and Procedure 454 Admin. Code* Chapter 7. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4th Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of this Order and be accompanied by a filing fee of $10.

On December 22, 2015, a copy of this Order was posted on the Department's website; mailed to Justin Hammond, Chairman, Board of Directors, Middle Niobrara Natural Resources District, 526 East 1st Street, Valentine, Nebraska 69201, and Department of Natural Resources field offices; and electronically mailed to Mike Murphy, General Manager, Middle Niobrara Natural Resources District.

Nebraska Department of Natural Resources
MAPPING SECTION

# TEMPORARY STAY ON NEW SURFACE WATER IRRIGATION ACRES IN THE MIDDLE NIOBRARA NRD EFFECTIVE FROM 26 DECEMBER 2015 UNTIL THE EARLIER OF THE COMPLETION OF THE INTEGRATED MANAGEMENT PLANNING PROCESS OR 4 FEBRUARY 2017, WHICHEVER IS EARLIER

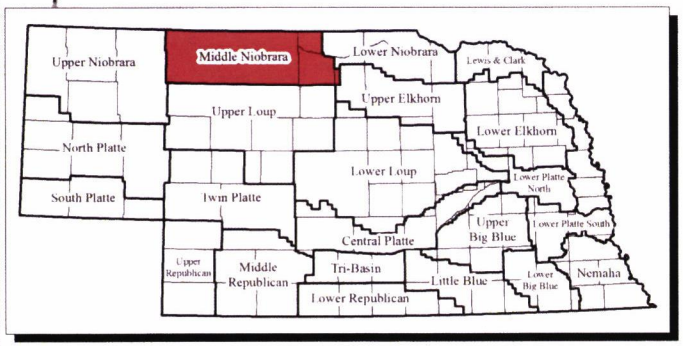
N
W E
S

S O U T H D A K O T A

Sheridan County

Keya Paha County

**MIDDLE NIOBRARA NRD**




Cherry County

Brown County

Rock County

Stay Area
NRD Boundary
County Boundary

5 0 5 10 15 20
Miles

19311

Contact the Nebraska DNR office regarding potential exceptions to surface water stays or moratonums.

Map Produced by DNR Mapping Section - December 16, 2015