

NORTH PLATTE NATURAL RESOURCES DISTRICT

RULES & REGULATIONS

For the Enforcement of the
Nebraska Ground Water Management and Protection Act

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NORTH PLATTE NATURAL RESOURCES DISTRICT
RULES AND REGULATIONS
Effective January 12, 2009

EFFECTIVE DATE -- These rules and regulations shall become effective on the date specified by any order establishing or amending the Ground Water Management Area or adopting these rules and regulations.

AUTHORITY -- The authority for these rules and regulations is contained in Chapter 46, Reissue Revised Statutes of Nebraska, Article 7, known as the Nebraska Ground Water Management and Protection Act.

CHAPTER 1 – GENERAL PROVISIONS

1-1 Area Designation and Boundaries. The area subject to these rules and regulations is the entire geographic area that coincides with the boundaries of the North Platte Natural Resources District, except where specified. The entire District is designated as a Ground Water Management Area. The stratigraphic boundary of the area is from the land surface to the base of the underlying layers that contain the water bearing material. The base of the water-bearing layers rest on undifferentiated cretaceous rock as defined by the University of Nebraska-Lincoln Conservation and Survey Division.

1-2 Definitions. As used in these rules and regulations:

1-2.1 Acre-inch means the amount of water necessary to cover an acre of land one inch deep.

1-2.2 Acre-foot means the amount of water necessary to cover an acre of land one foot deep.

1-2.3 Alleged Violator means any person against which a complaint has been filed in accordance with Rule 2-5 of these rules and regulations.

1-2.4 Allocation means the allotment of ground water withdrawn for specific use(s) on a water year basis as granted by the Board.

1-2.5 Animal Unit means a unit of measurement for any livestock operation calculated by adding the following numbers:

The number of slaughter and feeder cattle multiplied by 1.0,
plus the number of mature dairy cattle or cow/calf pairs multiplied by 1.4,
plus the number of swine weighing fifty-five pounds or more multiplied by 0.4,
plus the number of weaned pigs weighing less than fifty-five pounds multiplied by 0.04,
plus the number of sheep multiplied by 0.1,
plus the number of horses multiplied by 2.0,
plus the number of chickens multiplied by 0.01,
plus the number of turkeys multiplied by 0.02,
plus the number of ducks multiplied by 0.2.

1-2.6 Available Water means the amount of ground water that may be used to irrigate a certified tract during a water year. It is calculated by adding the total current allocation

to the amount of carry forward from the previous water year, if any, and then subtracting any available water overdraft penalties.

1-2.7 Available Water Overdraft means the amount of ground water, in acre-inches, used in excess of the available water during a water year.

1-2.8 Available Water Overdraft Penalty means a penalty assessed when an available water overdraft occurs. An available water overdraft penalty is equal to the amount of the available water overdraft and is expressed in acre-inches.

1-2.9 Backup Well(s) means an alternative well(s) of a pair or series of wells used only when the primary well(s) is off-line.

1-2.10 Base Allocation means the allotment of a specified amount of ground water, in acre-inches, per certified irrigated acre per water year.

1-2.11 Best Management Practices (BMPs) means schedules of activities, maintenance procedures, and other management practices utilized for purposes of irrigation efficiency, to conserve or effect a savings of ground water, or to prevent or reduce present and future contamination of ground water which may include, but not be limited to, irrigation scheduling, proper rate and timing of fertilizer application, and other fertilizer and pesticide management programs. In determining the rate of fertilizer application, the District shall consult with the University of Nebraska or a certified crop advisor certified by the American Society of Agronomy.

1-2.12 Board or Board of Directors means the Board of Directors of the District or its employees and agents acting at the direction of the Board of Directors.

1-2.13 Carry Forward means the portion of unused available water at the end of the water year that may be added to the total current allocation for the subsequent water year.

1-2.14 Certified Ground Water Use means any use of ground water in accordance with these rules and regulations.

1-2.15 Certified Irrigated Tract means any tract of land two (2) acres or more in the North Platte Natural Resources District, contiguous or not, owned by a person that is irrigated by ground water from a single well or from multiple wells that are interconnected by a common carrier and that has been certified by the District to allow the use of ground water for irrigation according to the process described in these rules and regulations.

1-2.16 Change of Use means the altering of one legally permitted use of ground water to another legally permitted use of ground water.

1-2.17 Cooperative Hydrology Study (COHYST) means a cooperative effort to improve understanding, of the hydrological and geological conditions in the Platte Basin in Nebraska upstream of Columbus, Nebraska.

1-2.18 Consumptive Use means that portion of the ground water that is withdrawn and is evaporated, transpired, incorporated into products or crops, or consumed by humans or livestock.

1-2.19 Commingled Water means water from both surface and ground water sources.

1-2.20 Contamination or Contamination of Ground Water means nitrate-nitrogen or other material which enters the ground water due to action of any person and causes degradation of the quality of ground water sufficient to make such ground water unsuitable for present or reasonably foreseeable beneficial uses.

1-2.21 Common Carrier means any carrier of water including a pipe, canal, ditch, or other means of piping or combining water for irrigation or other certified uses.

1-2.22 Complainant means any person who files a complaint alleging a violation of these rules and regulations in accordance with Chapter 2 of these rules and regulations.

1-2.23 Compliance Officer means an employee or agent of the District authorized to perform the functions assigned thereto, by these rules and regulations.

1-2.24 Decommission means, when used in relation to a water well, the act of filling, sealing, and plugging a water well in accordance with the Department of Health and Human Services Regulation and Licensure rules and regulations.

1-2.25 Department or DNR means the Nebraska Department of Natural Resources.

1-2.26 Dewatering Well means water well constructed and used solely for the purpose of lowering the ground water table elevation.

1-2.27 District or NPNRD or NRD means the North Platte Natural Resources District.

1-2.28 Domestic Well means a water well designed to provide water for human needs as it relates to health, fire protection, sanitation, water for domestic livestock as related to normal farm and ranch operations, or water for lawns and gardens for family use or profit where the area to be irrigated does not exceed two (2) acres. This does not include any well drilled for a public water system.

1-2.29 Educational Programs means training sessions designed to acquaint operators with best management practices in the operation of their irrigation and cropping systems.

1-2.30 Emergency Situation means any set of circumstances that requires the use of water from any source that might otherwise be regulated or prohibited and the District reasonably and in good faith believes that such use is necessary to protect the public health, safety, and welfare, including, if applicable, compliance with federal or state water quality standards.

1-2.31 Flow Meter means a device installed on a well to measure the amount of water being pumped from that well and the rate at which the water is being pumped; which meets standards and specifications established by the Board; and which is properly calibrated according to the manufacturer's standards.

1-2.32 Fully Appropriated Area or FA means the area of the North Platte Natural Resources District determined to be fully appropriated by Order of the Nebraska Department of Natural Resources on Sept. 30, 2004, as shown on Map 1 (attached).

1-2.33 Good Cause Shown means a reasonable justification for granting a variance for a consumptive use of water that would otherwise be prohibited by rule or regulation and which the District reasonably and in good faith believes will provide an economic, environmental, social, or public health and safety benefit that is equal to or greater than the benefit resulting from the rule or regulation from which a variance is sought.

1-2.34 Ground Water means that water which occurs in or moves, seeps, filters or percolates through ground under the surface of the land.

1-2.35 Ground Water Management Area or Management Area means any geographic and stratigraphic area designed to protect ground water quality or quantity so designated by the Board pursuant to 46-712. The entire District is designated as a Ground Water Management Area.

1-2.36 Ground Water Management Plan means the plan entitled "Ground Water Management Plan, North Platte Natural Resources District, November 1993," approved by the District Board of Directors in accordance with Section 46-709.

1-2.37 Ground Water Quality Management Sub-Area or Quality Management Sub-Area means any geographic and stratigraphic sub-area designed to protect ground water

quality so designated by the Board pursuant to Section 46-739(4), and the Ground Water Management Plan.

1-2.38 Ground Water Quantity Management Sub-Area or Quantity Management Sub-Area means any geographic or stratigraphic sub-area designed to protect ground water quantity so designated by the Board pursuant to Section 46-739(4), and the Ground Water Management Plan.

1-2.39 Ground Water Reservoir Life Goal means the goal as described in the Ground Water Management Plan.

1-2.40 Ground Water User means a person who at any time extracts, withdraws, or confines ground water from a regulated well. Whenever the landowner and operator are different, the term 'ground water user' shall mean both the landowner and the operator.

1-2.41 Historic Consumptive Use means that portion of the previously withdrawn ground water that is evaporated, transpired, incorporated into products or crops, or consumed by humans or livestock.

1-2.42 Illegal Well means: (i) Any well not registered pursuant to the provisions of Sections 46-602 to 46-604; (ii) any well in violation of spacing requirements specified by Section 46-609 or 46-651; (iii) Any well utilized for application of chemical materials in violation of the Nebraska Chemigation Act, and such rules and regulations as may be adopted from time to time by the Nebraska Department of Environmental Quality; (iv) Any well or pit from which water is transported to an adjoining state in violation of Section 46-613.01; (v) Any well located within fifty (50) feet of the bank of a channel of any natural stream and utilized for irrigation purposes without a permit required by Section 46-637; (vi) Any well constructed without a required permit under Section 46-735; (vii) Any illegal water well as defined by Section 46-1207.01; (viii) Any well constructed or operated in violation of these or other rules and regulations of the District or of other applicable laws, rules or regulations of the State of Nebraska and its agencies.

1-2.43 Improper Irrigation Run-off means the occurrence of irrigation run-off water (1) within a designated management area; (2) which causes or contributes to the accumulation of water upon or beneath the surface of the lands of any other person(s) to their detriment; or (3) which causes or contributes to the deterioration of water quality by depositing sediment or associated chemicals in surface waters within the area.

1-2.44 Inactive Status Well means a water well that is in a good state of repair and for which the owner has provided evidence of intent for future use by maintaining the water well in a manner which meets the following requirements:

1. The water well does not allow impairment of the water quality in the water well or of the ground water encountered by the water well;
2. The top of the water well or water well casing has a water-tight welded or threaded cover or some other water-tight means to prevent its removal without the use of equipment or tools to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the water well;
3. All entrances and discharge piping to the water well are effectively sealed to prevent the entrance of contaminants; and
4. The water well is marked so as to be easily visible and located and is labeled or otherwise marked so as to be easily identified as a water well and the area surrounding the water well is kept clear of brush, debris, and waste material.

1-2.45 Industrial/Commercial Well means a regulated well for the purpose of manufacturing, commercial or power generation uses of water. Commercial use includes, but is not limited to, maintenance of the livestock operations, turf of a golf course, non-governmental cemetery, non-governmental parks and recreational areas or other sports fields.

1-2.46 Inspector means an employee or agent of the District authorized to perform the functions assigned thereto, by these rules and regulations.

1-2.47 Irrigated Acre means any acre that is certified as such pursuant to rules and regulations of the District and that is actually capable of being supplied water through irrigation works, mechanisms, or facilities existing at the time of the certification.

1-2.48 Irrigation Run-off Water means ground water used for irrigation purposes which escapes from land owned, leased, or otherwise under the direct supervision and control of a ground water user.

1-2.49 Irrigation Well means a regulated well that pumps ground water to irrigated acres located within the District for the production of forage or any agricultural crop.

1-2.50 Landowner means any person who owns or is in the process of purchasing land.

1-2.51 Livestock Operation means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of one hundred (100) days or more in any twelve (12) month period and where crops and vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over a majority of the area. Livestock operation does not include an operation involving two hundred and fifty (250) animal units or less in a confined lot or an aquaculture facility.

1-2.52 Location of Use shall mean the location where ground water is applied for its legal use.

1-2.53 Monitoring Well means a water well that is designed and constructed to provide ongoing hydrologic or water quality information and is not intended for consumptive use.

1-2.54 Net Crop Irrigation Requirement (NCIR) means the net amount of water that must be applied by irrigation to supplement stored soil water and precipitation, and supply the water required for the full yield of an irrigated crop. The NCIR does not include irrigation water that is not available for crop water use, such as irrigation water that percolates through the crop root zone or that runs off of the irrigated field. The NCIR as used in this application is the annual amount of water and is expressed in units of acre-inches of water per acre of irrigated land for a year.

1-2.55 Observation Well means a water well that has been cased and is used for the purpose of monitoring static water levels and is not intended for consumptive use.

1-2.56 Offset shall mean any water that is used to compensate for ground water that has been withdrawn since the effective date of these rules and regulations for expanded or new use to meet a requirement of no new depletions to the North Platte River or any of its tributaries as it flows through the District.

1-2.57 Other Use means any use of ground water from a regulated well for purposes other than irrigated agriculture, a livestock operation, an industrial or commercial operation or a public water supply.

1-2.58 Operator means that person who has the most direct control over the day-to-day farming operation of the land concerned.

1-2.59 Operator Certification means a current certificate signifying that a person has completed the necessary educational programs established under the rules and regulations of any ground water management area or sub-area established by the District.

1-2.60 Overappropriated Area or OA means the area of the North Platte Natural Resources District designated as overappropriated by Order of the Nebraska Department of Natural Resources on September 15, 2004, as shown on Map 1 (attached).

1-2.61 Permit means an approval document that must be obtained from the Department and/or the District.

1-2.62 Person means a natural person, a partnership, a limited liability company, an association, a corporation, a municipality, an irrigation district, an agency or a political subdivision of the state, a department, an agency, or a bureau of the United States, or any other entity recognized by law.

1-2.63 Point of Withdrawal means the point at which ground water is removed from a well.

1-2.64 Primary Well(s) means the well(s) of a pair or series of wells which is (are) used as the principal water source for that certified use.

1-2.65 Public Water Supplier means any individual, organization or agency that provides drinking water through a public water system.

1-2.66 Public Water System means a system for providing the public with water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days per year. Public water systems include:

1. Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
2. Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

Public water system does not include a special irrigation district. A public water system is either a community water system or a non-community water system;

1-2.67 Range Livestock means livestock that are kept in pastures, on rangeland, or on other grazing lands and allowed to feed on vegetation growing therein.

1-2.68 Regulated Well means a single water well or a series of water wells, connected by a common carrier, the purpose of which is to provide water for a certified ground water use as defined regardless of the pumping capacity. Replacement wells and any excavation of land, including a sandpit, constructed for the extraction of ground water for irrigation are regulated wells. Domestic, range livestock, dewatering wells with an intended use of ninety (90) days or less, test holes, monitoring and observation wells, wells constructed pursuant to a ground water remediation plan under the Environmental Protection Act are not regulated wells.

1-2.69 Replacement Well means a water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable permit from the Department and applicable rules and regulations of the District and, if the purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and (i) replaces a decommissioned water well within one hundred eighty (180) days after the decommissioning of the original water well, (ii) replaces a water well that has not been

decommissioned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty (180) days after such construction, except that in the case of a municipal water well, the original municipal water well may be used after construction of the new water well but shall be decommissioned within one (1) year after completion of the replacement water well, (iii) the original water well will continue to be used but will be modified and equipped within one hundred eighty (180) days after such construction of the replacement water well to pump fifty (50) gallons per minute or less and will be used only for range livestock, monitoring, observation, or any other nonconsumptive or de minimis use and approved by the District, and (iv) the capacity of any replacement well or wells drilled cannot be more than the capacity of the original well as shown on the original well's registration with the Department of Natural Resources.

1-2.70 Rotation means a recurring series of use and non-use of irrigation wells on an hourly, daily, weekly, monthly, or yearly basis.

1-2.71 Test Hole means a hole designed solely for the purpose of obtaining information on hydrologic or geologic conditions.

1-2.72 Total Current Allocation means the amount of ground water allocated to a certified irrigated tract during a water year, expressed in acre-inches, and obtained by multiplying the number of acres in a certified irrigated tract by the base allocation.

1-2.73 Transfer means any arrangement approved by the staff and/or Board in which the point of withdrawal, the location of use, or the type of use is altered.

1-2.74 Transport means the physical movement of ground water from one point to another.

1-2.75 Type of Use means the certified use of a regulated well (i.e. irrigation, municipal, industrial).

1-2.76 Water Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing geothermal properties of the ground, obtaining hydro geologic information, or extracting water from or injecting fluid as defined in Section 81-1502 into the underground water reservoir. Water well includes any excavation made for any purpose if ground water flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation. For such excavations, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation. Water well does not include (i) any excavation made for obtaining or prospecting for oil or natural gas or for inserting media to repressure oil or natural gas bearing formations regulated by the Nebraska Oil and Gas Commission or (ii) any structure requiring a permit by the Department used to exercise a surface water appropriation;

1-2.77 Water Year means a one-year period beginning October 1 and ending September 30 of the following year.

1-2.78 Well Construction Permit means a document that must be obtained from the District in accordance with Sections 46-735 through 46-738, and Rule 1-3 of these rules and regulations.

1-2.79 Working Day means Monday, Tuesday, Wednesday, Thursday, and Friday of any week, excluding holidays observed by the District as described in the District personnel policy.

1-3 Well Construction Permits. Permits to construct all regulated water wells shall be required. Applications for a permit must be filled out and submitted on forms provided by the District. The District shall review the application and issue, issue with conditions, or deny the permit within thirty (30) days after the application is filed. The applicant shall pay to the District any fees in accordance with Section 46-735. Any person who fails to obtain a permit required by this rule shall make application for a late permit on forms provided by the District, and pay the late fee established by Section 46-735. Such permits shall be required for all replacement wells. Applications for such permits must be accompanied by a copy of any permit required under state law or the rules and regulations of any state agency and must be approved by appropriate state officials. When any construction permit is approved by the District, the applicant shall commence construction as soon as possible after the date of approval and shall complete construction and equip the water well within six (6) months of approval. If the applicant fails to complete the project under the terms of the permit, the District shall withdraw the permit. As provided by Section 46-736, such applications shall be denied only if the District finds (1) that the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the District, (2) that the proposed use would not be a beneficial use of water, or (3) in the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit.

1-4 Improper Irrigation Run-Off. All ground water users are prohibited from allowing improper run-off of irrigation water. A ground water user may implement any structural or non-structural procedure, measure, or combination thereof which provides for effective prevention, control or abatement of improper ground water irrigation run-off, including, but not limited to:

1. Limitation of water utilized so that structural measures are not necessary to prevent irrigation run-off water and proper operation and management of the irrigation system including any reuse or other control measures installed;
2. Construction of a run-off collection and/or retention system such as a sump or dugout, together with a reuse pump and/or ditch to return the water to the same or other field for beneficial use, or construction of grass filter strips or buffer zones;
3. Blocking of rows or field borders to contain irrigation water within the property under the direct supervision or control of the ground water user;
4. The execution and performance of an agreement between two or more persons and approved by the District for utilization of any irrigation run-off water in accordance with Rule 1-5 of these rules and regulations; or
5. Any other procedure or measure deemed acceptable by the District.

1-5 Agreement Between Landowners to Utilize Irrigation Run-Off Water. Ground water users whose irrigation run-off water is capable of being captured and utilized by another ground water user or other person in a manner which will prevent waste of such water, deterioration of surface water quality, and accumulation of water upon the land of any other person without his consent may have such water excluded from the definition of improper irrigation run-off water by submitting to the District an agreement providing for such capture and utilization signed by all affected parties, on forms provided by the District. When such agreement is approved by the District, it will show the District's concurrence that the ground water user's irrigation run-off water is under adequate control. The District will not pay any costs incurred by any of the

parties in controlling improper irrigation run-off water. The agreement may be terminated at any time by either party or by the District whenever it determines that such agreement no longer prevents or controls improper irrigation run-off water. If the District terminates the agreement, written notice shall be provided to both parties. If one of the parties to the agreement causes the termination, written notice shall be provided to the other party and to the District at least thirty (30) days before the agreement is terminated.

1-6 Ground Water Management Sub-Area Designation

1-6.1 Ground Water Quantity Management Sub-Area Designation. The District may, by order of the Directors and as authorized by subsection (4) of Section 46-739, designate one or more ground water quantity management sub-areas because of varying ground water uses, different irrigation distribution systems, or varying climatic, hydrologic, geologic, or soil conditions. Such a designation may occur after a hearing which is conducted in accordance with Section 46-712.

1-6.2 Ground Water Quality Management Sub-Area Designation. The District may, by order of the Directors and as authorized by subsection (4) of Section 46-739, designate one or more ground water quality management sub-areas because of varying ground water uses, different irrigation distribution systems, or varying climatic, hydrologic, geologic, or soil conditions. Such a designation may occur after a hearing which is conducted in accordance with Section 46-712.

1-7 Controls Established in Ground Water Management Area. Pursuant to Section 46-739, the District hereby determines the following actions are necessary to stabilize or reduce the level, increase, or spread of ground water contamination, consistent with the ground water reservoir life goal established in the District's Ground Water Management Plan, and hereby adopts the following Level 1 controls in the Ground Water Management Area.

1-7.1 Quality Controls:

1. Landowners and operators will be encouraged to use best management practices through an information and education program, which will include brochures, newsletters and other methods. The District shall provide educational materials to any person who files an application with the District for a permit to construct a water well, as described in these rules and regulations; to any person who applies for assistance under the District's Water Well Decommissioning Program; and to any person who receives a new chemigation permit. The District also shall make this educational material available to anyone else who requests it.
2. The District shall maintain an ongoing program of monitoring wells for ground water quality, identify any obvious sources of pollution, and collect land use data for the area.
3. The District shall make sure that all existing rules for the prevention of ground water pollution under NPNRD jurisdiction, such as chemigation permits, are enforced.
4. The District shall share information with appropriate agencies and seek cooperation in solving problems where applicable.
5. As potential areas of contamination are identified, the District shall sample additional wells to determine the severity and geographical extent of the contaminated area.

1-7.2 Quantity Controls:

1. Landowners and operators will be encouraged to conserve water through an information and education program.
2. The District shall encourage the use of best management practices through educational programs and seminars in cooperation with other agencies.
3. The District shall maintain an observation well network for water levels to provide sufficient coverage of all aquifers in the District.
4. The District shall establish a predevelopment level for each observation well.
5. The District shall gather land-use records and identify water uses.
6. The District shall share information with appropriate agencies and seek cooperation where applicable.
7. In suspected areas of ground water level declines, the District shall monitor additional wells to determine the extent and geographical area of decline.

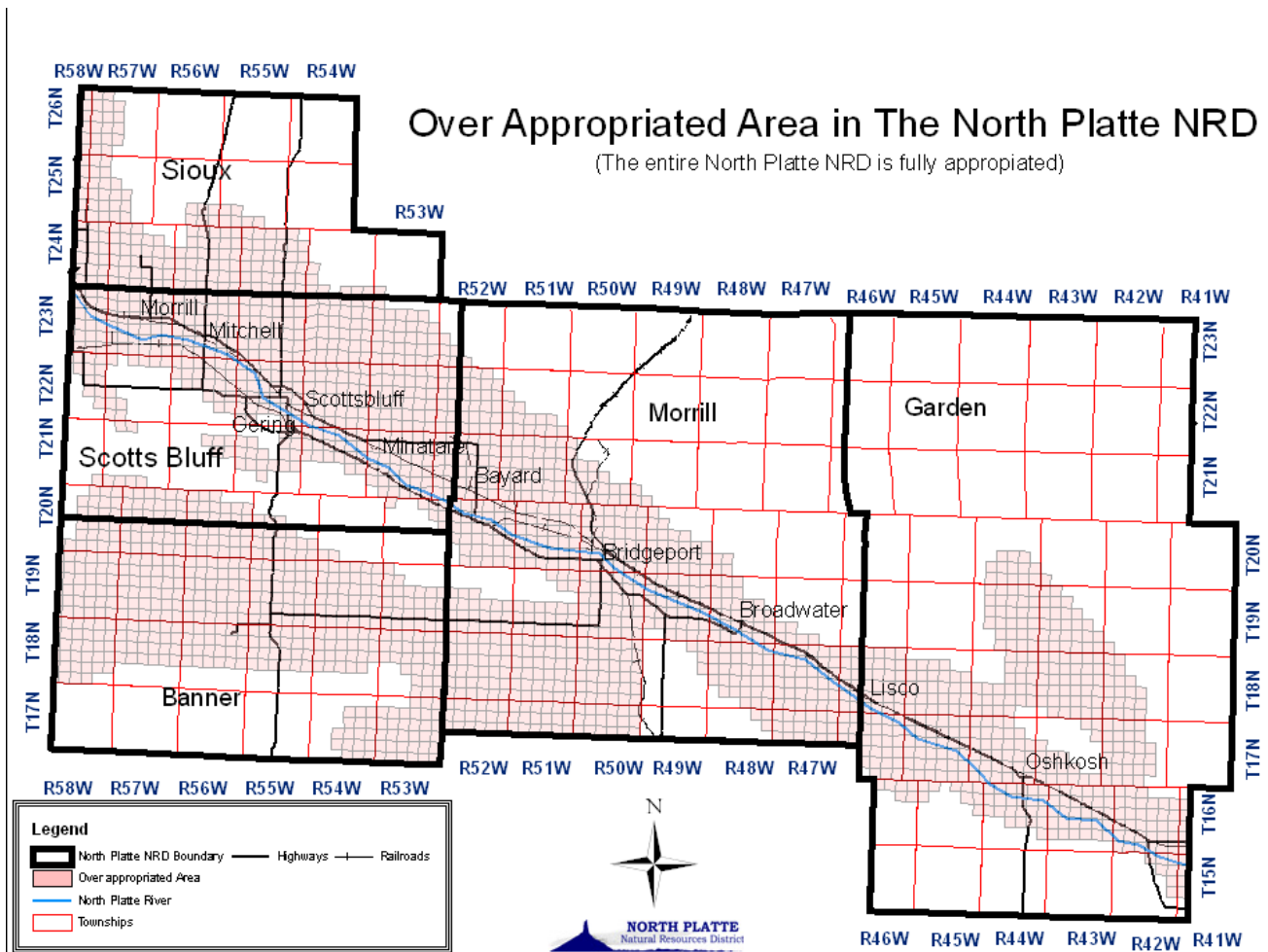
1-8 Moratoriums. In accordance to Section 46-739(f), the expansion of irrigated acres and increases in the consumptive use of ground water withdrawn from water wells used for irrigation or other beneficial purposes, except for domestic and range livestock use, is prohibited within the Management Area. In accordance to Section 46-739(m) the issuance of permits to drill all new regulated wells is prohibited. Permits will be issued for replacement wells if provisions of state law and the District's rules and regulations are met.

1-9 Backup Wells. Primary well(s) and backup well(s) shall be considered as one well for purposes of Chapter 6. Backup well(s) may be permitted and operated with the following conditions:

1-9.1 Backup Well Permitting. The pumping capacity of the backup well(s) cannot exceed the pumping capacity of the primary well(s), and the depletion factor as determined by the Cooperative Hydrology Study (COHYST) ground water model for the backup well(s) must be less than or equal to the depletion factor for the primary well(s).

1-9.2 Backup Well Operation. The backup well(s) may only be used for the certified use of the primary well(s). The backup well(s) cannot be operated while the primary well(s) is (are) capable of being operated with the exception of when maintenance is being performed on either the primary well or, if there is more than one backup well, one of the backup wells.

1-10 Applicability. The rules and regulations in Chapter 1 apply to the entirety of the Management Area except where Management Sub-Area rules and regulations are more restrictive. In that event, the Management Sub-Area rules and regulations would apply.



Map 1

Chapter 1—General Provisions was adopted by Order No. NPNRD-1 April 11, 1996; amended by Order No. NPNRD-2 and effective September 18, 1997; amended by Order No. NPNRD-13 and effective January 11, 2007; amended by Order No. NPNRD-14 and effective August 7, 2008; amended by Order No. NPNRD-15 effective January 12, 2009.

CHAPTER 2 -- PROCEDURES FOR ENFORCEMENT

2-1 General Enforcement Procedures. The Board of Directors or the District Manager may, at any time, initiate an investigation for the enforcement of these rules and regulations when conditions warrant within the jurisdiction of the District. The Board may order any hearing which it is authorized either by law or inherent power to conduct. The Board may require the attendance of any person at such hearing.

2-2 Entering Upon Property. Employees of the District or designated agents of the District may enter upon private property after proper notification during reasonable hours to carry out responsibilities and enforcement specified under these rules and regulations and the Nebraska Ground Water Management and Protection Act (Act) or other current applicable statutes.

2-3 Violations. The District shall enforce the provisions of the Act and all rules and regulations adopted pursuant thereto by voluntary compliance, the issuance of cease and desist orders, and/or penalties, in accordance with the procedures hereinafter specified. Cease and desist orders shall be enforced by bringing appropriate actions in the District Court of the county in which any violations occur. Cease and desist orders may be issued, penalties may be assessed, or voluntary compliance procedures may be invoked for the following reasons:

1. Construction or operation of an illegal well as defined in District rules and regulations;
2. Operation of an irrigation system in a designated Management Area or Management Sub-area in non-compliance with the rotational or allocated use of ground water as may be hereafter adopted by the Board;
3. Failure by any landowner or operator in a designated Management Area or Management Sub-area to use best management practices required by the Board;
4. Failure by any landowner or operator in a designated Management Area or Management Sub-area to obtain the appropriate operator certification that may be required by the Board;
5. Failure by any landowner or operator in a designated Management Area or Management Sub-area to submit any reports or forms that may be required by District rules and regulations;
6. Operation of an irrigation system in a manner which allows for improper irrigation run-off;
7. Expansion of irrigated acres and increases in the consumptive use of ground water withdrawn from water wells used for irrigation or other beneficial purposes without consent of the District;
8. Use of ground water that has not been certified in accordance with these rules and regulations;
9. Chemigating without either an applicator's certificate or proper chemigation equipment pursuant to the Chemigation Act;
10. Failure to install, inspect, and maintain the proper installation and operation of flow meter(s) pursuant to these rules;
11. Tampering, obstructing, modifying or taking any action for the purpose of producing an inaccurate or incorrect flow meter reading or taking any other action that would prevent the District from obtaining an accurate estimate of actual water use;
12. Any other violation of any rules and regulations established by the Board.

2-3.1 In assessing a sanction, the District shall consider the degree and extent of the violation, the size of the operation, whether the violator has been previously determined to have violated a cease and desist order, controls, rules, or regulations of the District, the urgency of remedial action, and any economic benefit derived from noncompliance.

2-4 Penalties. The Board may assess penalties following the approval of a compliance plan pursuant to Rule 2-10 or the issuance of a cease and desist order. Such penalties may consist of, but are not limited to, any one or more of the following:

1. Reduction of ground water allocation, in whole or in part, for a period to be specified by the Board, but not limited to the current allocation period;
2. Reduction of carryforward allocation carried forward from previous allocation periods, in whole or in part;
3. Reduction in the number of certified irrigated acres on the tract, in whole or in part; and
4. Revocation of a chemigation permit. The Manager is authorized to suspend chemigation permits due to improper equipment until such time as the deficiency is corrected. Once corrected, the equipment must be inspected by a District staff member after which time the permit may be reinstated.

2-5 Filing of Complaints. A written complaint alleging violation of these rules and regulations as described in Rule 2-3 may be filed against a landowner and/or operator by any person who owns land, leases land, or resides within the boundaries of the District; any non-resident person who can show that the actions of any landowner and/or operator within the District directly affects him or her; the District compliance officer; or the Board of Directors on its own motion. Complaints shall be filed at the office of the District on complaint forms prepared by the District.

2-6 Notification of Alleged Violator and Inspection. Upon receipt of a properly filed complaint under Rule 2-5, a compliance officer of the District shall notify the alleged violator within ten (10) days that a complaint has been filed. A copy of the complaint shall be delivered to the alleged violator in person, or at his/her place of residence, or be sent by certified mail. The compliance officer may designate an inspector if the compliance officer determines that an inspection is necessary to determine whether or not the landowner or operator is or was, at the time complained of, in violation of these rules and regulations. Any inspector so designated shall conduct an investigation as soon as possible after the complaint has been filed and the alleged violator notified. The alleged violator shall be given an opportunity to accompany the inspector during the investigation.

2-7 Report of Findings. Upon completion of the investigation, the inspector shall deliver a copy of the findings to the compliance officer. If the compliance officer finds that there is reasonable cause to believe that a landowner and/or operator is or was, at the time complained of, in violation of these rules and regulations the compliance officer shall deliver a copy of the findings to the alleged violator and to the complainant, if other than the Board, in person, at their place of residence or transmit the same by certified mail. These findings shall be accompanied by a notice of the Board's next regular or special meeting date scheduled at least five (5) days subsequent to delivery of said notice. The notice shall also specify options available to the alleged violator.

2-8 Options for Alleged Violators. Alleged violators shall be notified of and have the following available options:

- 2-8.1 Agree with and accept as true and correct the compliance officer's findings

that the alleged violation(s) has in fact occurred or is occurring and consent in writing to cease and desist from continuing or allowing the reoccurrence of such violation; and submit a schedule for corrective action pursuant to Rule 2-9; or

- 2-8.2 Reject the compliance officer's findings and request in writing within ten (10) days of the receipt of the findings that a formal hearing be scheduled and conducted. The Board shall hold such hearing in accordance with the rules and regulations governing conduct of a formal adjudicatory hearing before the District.

2-9 Compliance Plan. If the alleged violator agrees with the compliance officer's findings and further agrees to submit a plan to conform with these rules and regulations, the landowner and/or operator shall submit a plan within ten (10) days following notification provided pursuant to Rule 2-7. Failure to submit a plan within ten (10) days shall be deemed a rejection of the findings and shall be deemed a request for a formal hearing.

2-10 Voluntary Compliance. Subsequent to the submission of a plan to take corrective action, the compliance officer shall review the complaint, the investigation report, the plan, and any other related or pertinent document necessary to evaluate the plan.

- 2-10.1 The compliance officer shall determine whether the actions agreed to by the landowner and/or operator will, when implemented, bring the landowner and/or operator into compliance with these rules and regulations. If the compliance officer determines that the proposed actions of the landowner and/or operator are adequate and will prevent future violations within a reasonable time period, such action or plan will be approved and the compliance officer shall notify the landowner and/or operator of the compliance officer's approval and provide a schedule of compliance to complete the plan.

- 2-10.2 If the compliance officer determines that implementation of the proposed plan would be inadequate to prevent further violation of the rules and regulations, the compliance officer shall inform the landowner and/or operator of its disapproval and shall make proposed changes or additions to the plan to obtain conformance with these rules and regulations. An alleged violator shall have ten (10) days from the receipt of the proposed changes from the compliance officer to consent to such additions or changes (in which event the compliance officer shall approve the plan as amended), agree to negotiate, or reject such changes and request a formal hearing.

2-11 Board Action for Failure to Respond or Appear. If an alleged violator has been notified in accordance with Rule 2-6, Rule 2-7, or Rule 2-8 of this chapter and has failed to respond hereunder or has failed to appear at any properly scheduled formal hearing the Board shall review the complaint and the inspector's report as well as any other pertinent information and issue such order or orders in accordance with these rules and regulations as are deemed appropriate.

2-12 Actions Following Issuance of Cease and Desist Order. Any alleged violator against which a cease and desist order has been issued in accordance with these rules and regulations may, within ten (10) working days following receipt of such order, submit a schedule of

compliance. The schedule of compliance shall be approved by the District compliance officer if such request is in accordance with any and all guidance given by the Board at the time of issuance of the order. The District compliance officer may grant an extension of up to ten (10) additional working days if he or she deems such an extension reasonable.

2-13 Board Authorization to Initiate Court Action. The Board shall, at the time it takes any action in accordance with this chapter, designate a representative of the Board to initiate appropriate legal actions in the District Court of the county in which the violation has occurred, at least five (5) days after the alleged violator fails to comply with any orders of the District, any extension, or any schedules of compliance approved under these rules and regulations. In addition, if any schedule of compliance approved by the Board or the District compliance officer is not initiated as agreed to or is not being properly and timely carried out, unless due to circumstances beyond the control of the alleged violator, the Board shall authorize immediate initiation of appropriate litigation.

Chapter 1—General Provisions and Chapter 2—Procedures for Enforcement were adopted by Order No. NPNRD-1 April 11, 1996; amended by Order No. NPNRD-2 effective September 18, 1997; amended by Order No. NPNRD-13 effective January 11, 2007.

CHAPTER 3 -- CERTIFICATION OF GROUND WATER USES

3-1 Area Designation and Boundaries. The area subject to Chapter 3-Certification of Ground Water Uses is the entire geographic area that coincides with the boundaries of the North Platte Natural Resources District, except for all lands lying within the Pumpkin Creek Basin Groundwater Management Sub-Area, as defined in Order NPNRD-4.

3-2 Certification Deadlines. Beginning January 1, 2008 no regulated groundwater well shall be operated unless such use has been certified and approved by the District pursuant to these Rules and Regulations. The certification processes will be conducted and completed according to the following schedule:

Garden and Sioux Counties: by January 1, 2007

Morrill and Banner Counties: by May 1, 2007

Scotts Bluff County: by January 1, 2008

It is incumbent upon the person applying for certification of groundwater use to present and thoroughly review any documentation with the District during the certification process to ensure that persons' type and amount of groundwater use within the District is accounted for and agreed upon.

3-3 Certification of Ground Water Uses for Irrigation. Any landowner who uses a regulated well whose purpose is to supply groundwater to irrigate crops must obtain certification of each irrigated tract by applying to the District on forms provided by the District. The District will consider historical information provided by the applicant that supports irrigation use for a calendar year from the period of July 1, 1997 through July 26, 2004 and submitted with the application:

1. Location of each tract to be irrigated by legal description to the nearest quarter section.
2. An aerial photo or map of each tract.
3. The size, in acres, of the irrigated tract.
4. The registration number(s) of any wells historically used to irrigate each tract.
5. Indicate any sources of irrigation water other than groundwater to be used on each tract.
6. USDA-FSA records for each tract for the year an irrigation history is claimed.
7. County Assessor records for each tract for the year an irrigation history is claimed.
8. Any other information deemed necessary by the District.

3-4 Certification of Ground Water Uses for Public Water Supplies. Any person who uses a regulated well to supply groundwater for public supplies must obtain certification of each use by applying to the District on forms provided by the District. The applicant shall furnish the following information with the application:

1. Public water supply system permit number(s).
2. The registration number of water well(s).
3. Location of groundwater use by legal description or map of distribution area.
4. Identification of any sources of water for the public water system other than ground water.
5. Total number of service connections.

3-5 Certification of Ground Water Uses for Other Than Irrigation and Public Water Supplies. Any person who uses a regulated well to supply groundwater for other than irrigation of crops or public water supply must obtain certification of each use by applying to the District on forms provided by the District. The applicant shall furnish the following information with the application:

1. Purpose of groundwater use.
2. Location of groundwater use by legal description.
3. The registration number of water well(s).
4. Identification of any sources of water for the use other than ground water.

3-6 Consideration of Applications and Decision on Certification. In considering each application, the District will take into consideration the following information in the following order of preference:

1. Records of the U.S. Department of Agriculture
2. Records of the County Assessor
3. Evidence submitted by the applicant or the District's staff
4. Any other information deemed relevant by the District

The District may request more information from an applicant. Certification will be based on the size and location of irrigated tracts, the capacity of livestock operations, or on the amount and purpose of other uses in the period between July 1, 1997 to July 26, 2004. Applicants who feel that information for that period does not reflect normal circumstances for that groundwater use may produce evidence to support their case. The District shall take this evidence into consideration when reviewing applications for certification. A majority vote by the members of the board of directors present at an open meeting of the board shall be necessary for approval of an application for certification. The board, at its discretion, may grant temporary certification if there is not enough time or information for final determination.

3-6.1 Changes in Certification

3-6.1.a. The board may re-evaluate any determination on certification from time to time on its own motion or upon receiving an application for change in certification from an owner. Such application for change must be submitted on forms provided by the District. The board may approve changes if it finds that such changes would not increase the number of total irrigated acres, or otherwise have detrimental effects on ground water or surface water users. The board may rescind any previously approved certification if it finds that (a) the application for certification contained any false or misleading information; or (b) that the ground water user failed to meet any conditions stipulated in the certification.

3-6.1.b. Any change in property ownership that results in a certified ground water use passing from one person to another must be reported to the District by the new property owner within 60 days of the completion of the transaction on forms provided by the District.

3-6.1.c. If for any reason, including but not limited to consideration for receipt of funds paid by the District or by any other party, a landowner agrees to permanently discontinue irrigation on acres for which certification has previously been approved, the board shall rescind such certification to the extent it applies to those acres.

3-6.1.d. Anytime a certification is modified or rescinded the District shall notify the applicable landowner or landowners by certified mail of any changes in or rescission of a previously approved certification.

3-6.2 Appeals

Any groundwater user aggrieved by a determination of the board regarding certification of ground water use may request a hearing before the District for the purpose of reconsidering that decision. Such request shall be filed with the District within thirty (30) days of receipt of notice of the board's action on the groundwater user's application. Such hearing shall be conducted in accordance with the District's rules and regulations for informal, non-adjudicatory hearings unless a groundwater user requests a formal, adjudicatory hearing. The burden of proof shall be on the ground water user to document that the District's decision should be modified.

3-7 Variances. The Board may grant variances from the strict application of Chapter 3 of these Rules and Regulations if it determines that construction of a new municipal, industrial, or irrigation well is necessary to alleviate an emergency situation involving the provision of water for human consumption or upon other good cause shown. The request for a variance must provide all the information requested by the District on forms provided by the District, and any other information requested by the District. Such request shall be acted upon by the Board of Directors following a public hearing notice and a public hearing.

Chapter 3—Certification of Ground Water Uses was adopted by Order No. NPNRD-11 on September 14, 2006 and effective October 12, 2006.

CHAPTER 4 – INSTALLATION AND USE OF FLOW METERS

4-1 Flow Meters Required. Flow meters shall be permanently installed on all regulated water wells within the overappropriated area of the District on or before May 1, 2008. All lands lying within the Pumpkin Creek Basin Ground Water Management Sub-Area, as defined in Order NPNRD-4, are exempt from Chapter 4 of these rules and regulations.

Flow meters must be capable of measuring all the ground water pumped by that well or by all wells hooked in a series for each certified use. If a water well is used for more than one purpose, the flow meter must be capable of measuring the amount of ground water pumped for each certified use.

4-2 Flow Meter Specifications and Installations Instructions. A flow meter must be installed at each regulated well. Exceptions to this rule that may be considered and approved by the District staff are cases such as multiple wells serving one pivot. A list of recommended flow meter brands that have been approved by the Board for installation and use within the overappropriated area will be kept current and available to all landowners at the District office at P.O. Box 280, 100547 Airport Road, Scottsbluff, Nebraska, 69361. Only meters included on such list will be allowed and considered conforming flow meters. Each flow meter shall be installed according to the manufacturer's specifications and calibrated to the pipe size to achieve the accuracy required by the flow meter standard. The meter registry shall have a visual volume recording totalizer that shall record acre-inches for irrigation wells and total gallons pumped for other regulated wells. In addition, flow meters must meet the following requirements:

1. The registry shall be protected from the elements.
2. Totalizers shall have sufficient capacity to record for the period of one (1) year the quantity of water pumped from each well.
3. Totalizers shall be direct reading and the multiplier shall be clearly indicated in which the rate of flow can be determined by timing.
4. The meter size, serial number, and the direction of flow shall be clearly stamped on the body of the meter.
5. The inside pipe diameter for which the meter has been calibrated shall be clearly shown on the meter to the nearest 0.001 of an inch.
6. The flow meter shall be located in an easily accessible location for meter reading and maintenance.
7. Backflow devices will be required where reverse flow creates meter reading errors.

Accurately measuring flow meters installed prior to the effective date of these rules are exempt from the specifications contained herein. Any flow meters that are not on the approved list of meters shall be designated as non-conforming flow meters. When any such non-conforming flow meter is replaced, the replacement flow meter must be included on the approved list of meters and conform to the specifications contained herein. In any event, all non-conforming flow meters must be replaced with flow meters that conform to the specifications listed above within ten (10) years from the effective date of these rules and regulations.

4-3 Flow Meter Violations and Maintenance. Except as specifically provided herein, it shall be a violation of these rules and regulations for any person to willfully injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere with or tamper with a flow meter without

District consent, or to cause, procure, or direct any other person to do so. Removing any seal placed on a meter by the District will be considered tampering with a meter.

Once a flow meter is sealed by the District, it cannot be removed without notifying the District in advance. Each flow meter must be kept in working order and clear of debris, vegetative growth, or other material that would impede operation.

Any malfunctioning flow meter must be reported to the District office in Scottsbluff, Nebraska by calling (308) 632-2749 within twenty-four (24) hours after discovery. Malfunctioning flow meters discovered on any day other than working days (weekends and holidays) shall be reported before the District office closes on the first working day following the discovery. During the malfunctioning period, the owner shall use a method approved by the District to determine water consumption while the flow meter is being repaired. The owner and/or operator is responsible for all maintenance and repairs of their flow meter(s) and shall make all diligent effort to put it back into service as soon as reasonable, or to replace it if it cannot be repaired.

When flow meters are removed for servicing or replacement, the landowner or operator must keep records of the flow meter reading.

4-4 Flow Meter Readings and Inspections. District staff shall have access to each regulated well(s) and flow meter(s) at any reasonable time for the purposes of reading and recording information displayed on the flow meter.

In addition to reading the flow meter, District staff shall also have access to each flow meter at any reasonable time for the purpose of determining the performance, accuracy, and whether such meter has been tampered with.

4-5 Enforcement. The rules and regulations in Chapter 4 shall be enforced by the District through the use of cease and desist orders or other measures as provided for in Chapter 2.

Chapter 4—Installation and Use of Flow Meters was adopted by Order No. NPNRD-12 by the North Platte NRD Board of Directors on March 8, 2007 and effective April 5, 2007; amended by Order No. NPNRD-13 and effective January 11, 2008; amended by Order No. NPNRD-15 effective January 12, 2009.

CHAPTER 5 – TRANSFER OF GROUND WATER

5-1 Area Designation and Boundaries. The area subject to Chapter 5 of these rules and regulations is the entire geographic area that coincides with the boundaries of the North Platte Natural Resources District, with the exception of lands lying within the Pumpkin Creek Basin Ground Water Management Sub-Area as defined in Order NPNRD-4.

5-2 Offsets. No new net depletions to the hydrologic system within the District will be allowed. Anyone seeking a permit to transfer ground water that will result in an increase of consumptive use as of the effective date of these rules and regulations will be required to permanently offset the increase of consumptive use associated with the permit. Exceptions to this rule are uses for domestic or range livestock use.

Offset water must be returned to the hydrologic system in time, location and amount where the depletion occurs and upstream of the next downstream appropriator. Offsets for irrigation purposes will be achieved by the retirement of one (1) acre for every one (1) acre that is put into new irrigated production. For uses other than irrigation, offsets will be based on consumptive use. Such consumptive use will be calculated by the District based on best scientific data available.

If and when offsets are necessary, the applicant shall describe, on a form provided by the District, specifically how, when, and where the new depletion to ground water supplies proposed in the permit application will be offset.

The District reserves the right to place additional restrictions on transfers as necessary.

5-3 Conditions for All Transfers. Transfers may be allowed in the same, adjacent or diagonal government survey section with District staff approval. All other transfers beyond such boundaries will require Board review and approval on a case-by-case basis.

Transfers of certified ground water uses which are greater than two acres to newly irrigated lands will only be allowed for row crops with a majority of Class I, Class II, Class III, Class IVw and Class IVs soils as identified in the U.S. Department of Agriculture, Natural Resources Conservation Service Standard Soils Survey, and transfers for irrigation will only be allowed for Class IVe soils if the area remains in alfalfa or grass.

Withdrawal, transport, and use of such water shall be consistent with all applicable state statutes, and the rules and regulations of the District. All approved transfers of ground water are subject to any future ground water allocation plans or other restrictions approved by the Board.

5-4 Transfers of Ground Water – Permit Required. Any person who desires to withdraw ground water from wells located within the District and to transport that ground water from a regulated well associated with a certified ground water use for reasonable and beneficial use elsewhere, or to transfer the location of use, transfer the point of withdrawal, or transfer the type of use may do so only after applying for and obtaining a permit on forms provided by the District.

The permit holder will then have six (6) months from the date of permit approval to complete the transfer. If a transfer is not completed within that time, the District may consider, on a case-by-case basis, the circumstances for the transfer not being completed within the allotted time and allow for an extension. If the transfer has not been completed within the six (6) month period and an extension has not been granted, the District shall withdraw the permit.

Once granted, such permits will remain in force until the owner of a well that is subject to such transfer notifies the District in writing within thirty (30) days of cessation of the transfer that the transfer permit should be cancelled, or until the Board determines that such transfer is no longer in the best interest of the public.

5-4.1 Transfer permits for situations when ground water is discharged into an open ditch and transported by such ditch to a location other than the same, adjacent, or diagonal government survey section will not be granted by the District.

5-4.2 Transfer permits for when ground water is discharged into a natural stream or channel and transported by such open stream or channel to a location other than the overlying land can not be granted by the District. A permit from the Nebraska Department of Natural Resources would be required for this type of transfer.

5-5 Exceptions to Permit Required. No transfer permit shall be required pursuant to Rule 5-4 if the withdrawal and transfer of ground water complies with any one or more of the following exceptions, provided however, that notice of such transfer shall be given to the District within thirty (30) days of the commencement of such transfer:

1. The withdrawal and transfer of ground water was begun prior to the effective date of these rules and regulations and was at that time in compliance with all applicable District rules and regulations and all applicable state statutes and regulations. Landowners are required to file with the District, on forms provided by the District, proof of withdrawal and transfer of ground water if such withdrawal and transfer was begun prior to the effective date of these rules and regulations;
2. The proposed withdrawal and transfer of ground water is for domestic purposes only and is subject to Neb. Rev. Stat. § 46-691.01.
3. The proposed withdrawal and transfer of use is solely for the purpose of providing water to range livestock.
4. The withdrawal and transfer has been approved by the Department prior to July 16, 2004.
5. The withdrawal and transfer has been approved by the Department pursuant to the Municipal and Rural Domestic Ground water Transfers Permit Act, Neb. Rev. Stat. §§ 46-638 to 46-650 (“the Act”). Any public water supplier that has filed an application for a permit pursuant to the Act, and has not been issued a permit on the effective date of this rule, shall not be subject to the jurisdiction of the District over the withdrawal and transfer, so long as such public water supplier is diligently pursuing such application. If the District determines that a public water supplier is not diligently pursuing a permit or is denied a permit by the Department of Natural Resources pursuant to the Act, the District requires the applicant to seek a permit from the District under Rule 5-4 above.
6. The withdrawal and transfer has been approved by the Department pursuant to Industrial Ground Water Regulatory Act. Neb. Rev. Stat. §§ 46-675 to 46-690.

5-6 Hydrologic Evaluation Required. A hydrologic evaluation will be required of any person withdrawing and transferring more than two hundred fifty (250) acre feet of ground water annually. That person shall, in addition to the information required on the transfer permit application, provide the District with a hydrologic evaluation conducted at the permittee’s expense. The evaluation must show the impact, if any, of the intended withdrawal and transfer for a minimum of fifty (50) years on ground water users, surface water appropriators, and the ground water table. A non-refundable fee of five hundred dollars (\$500) is required of the applicant to reimburse the District for its costs in reviewing and assessing the hydrologic evaluation.

5-7 Types of Transfers. Permits will only be considered for the following types of ground water transfers:

5-7.1 Transfers Out of District. Transfer of the location of use to outside the District boundaries will not be allowed unless transfer of the location of use is to the same, adjacent, or diagonal government survey section, in which case a transfer permit from the District will be required. Transfer of the point of withdrawal to outside the District boundaries will be considered pending approval from the bordering District.

5-7.2 Transfers Out of the State. Requests for transfer of ground water out of state pursuant to Neb. Rev. Stat. § 46-613.01 shall require District approval but will not be acted upon by the District until such time as the approval or denial, by the Department, of the required transfer permit.

5-7.2.1 Any person desiring to transfer ground water to an adjoining state shall advise the District of the proposed transfer no later than the filing of a permit application with the Department.

5-7.2.2 A water well construction permit shall not be issued until a permit to transfer ground water to an adjoining state has been obtained from the Department and a copy of the permit is on file with the District.

5-7.3 Transfers Into the District/Into the State. District approval is required before ground water is transferred from a well located outside the District for use within the District unless such transfer began before the effective date of these rules and regulations or the water is used solely for domestic purposes or used to water range livestock. Such approval shall be granted if the proposed transport of the ground water is not inconsistent with the District's rules and regulations and if the applicant agrees that such approval may be conditioned on the water use being in conformance with District rules and regulations relating to the use of water withdrawn inside the District. The applicant shall provide the District with such information as the District deems necessary to make a determination about whether to grant, condition, or deny the permit application. Ground water withdrawn outside the District shall not be transported for use inside the District unless the District from which the ground water is withdrawn approves the withdrawal and transport in advance. Any transfer into the District, unless such transfer began before the effective date of these rules and regulations or the water is used solely for domestic purposes, or range livestock purposes, regardless of its origin, will be considered a new use in the District and will be required to be offset as outlined in Rule 5-2.

5-7.4 Transfer of Point of Withdrawal. Transfers of the point of withdrawal from a fully appropriated area to an overappropriated area are prohibited. Point of withdrawal transfers will be allowed from an overappropriated area into a fully appropriated area only if that transfer will not cause impact on other immediate ground water users or surface water appropriators.

5-7.5 Transfer of Location of Use from FA to OA. Transfers of the location of use from FA to OA will only be allowed when ground water is transported from the original well (without changing the point of withdrawal). Transfers of location of use from FA to OA may be allowed only if the transfer will not cause impact on other immediate ground water uses or surface water appropriations, and there are no increases in historic consumptive use unless an offset is provided.

5-7.6 Transfers of Location of Use from OA to FA are prohibited.

5-7.7 Transfer of Location of Use or Point of Withdrawal. In the case of transfer of location of use of water or transfer of point of withdrawal, the use associated with the original well or wells will have the certification of ground water use rescinded. The new use must be certified in accordance with Rule 3-3, except that historical information will not be required.

5-7.8 Transfer of Type of Use. Transfer of type of use or addition of type of use will require a permit from the District. No change or addition of ground water use shall be approved unless such change or addition results in no increase in the historic

consumptive use of the ground water to be transferred unless an offset is provided. The certification of the original ground water use will be rescinded and the new use certified in accordance with Rule 3-3.

5-7.9 Transfer of Commingled Water The transfer of ground water from certified acres that are irrigated with both surface and ground water (commingled water) will be permitted under the following conditions:

5-7.9.1 Transfers are permitted on an acre for acre basis from agricultural land to other agricultural land if there is no increase in net ground water irrigated acres and all District water transfer conditions are met.

5-7.9.1.1 Ground water and surface water serving the same acres are both transferred to the same number of new acres not previously irrigated.

5-7.9.1.2 Ground water is transferred from acres irrigated by commingled water to acres irrigated with surface water only.

5-7.9.1.3 Surface water is transferred or assigned from acres irrigated by commingled water to acres certified for ground water use only. The original acres will retain full ground water irrigation use.

5-7.9.2 Ground water is transferred from an irrigated agricultural use to a non-agricultural use. The District will use the Net Crop Irrigation Requirement (NCIR) for corn developed by the University of Nebraska-Lincoln in inches per acre for that location to determine the amount of the ground water portion which may be transferred. The number of inches of ground water permitted to be transferred will be the difference between the annual NCIR for corn and the average annual historic volume of water diverted by the surface water appropriator as determined by Department of Natural Resources' records. That amount will be divided by the total acres on record at the DNR for that appropriator allowing for a fifty percent average delivery loss. $(\text{NCIR} - (\text{Diversion} \times .5)/\text{acres}) = \text{inches ground water transferable per acre}$.

5-7.9.3 If the surface water appropriation on acres irrigated by commingled water is eliminated due to relinquishment or is otherwise lost when surface water was available, the District will rescind certification for ground water irrigation and prohibit the use of ground water for irrigation on said acres if the surface water appropriation is not transferred or assigned and the appropriation is lost resulting in a reduction in the appropriator's diversion entitlements. If the transfer or assignment of surface water from acres irrigated by commingled water to previously non-irrigated acres occurs, the formula used in Rule 5-7.9.2 will be applied to the use of the remaining ground water on the original acres.

5-8 Application for Transfer Permit(s). An application for a permit to transfer ground water shall include the following information:

1. The name and post office address of each owner of the land where the well or wells are or will be located, and if another person or persons operate such well, the name and address of such person or persons;
2. The name and post office address of the owner or owners of the land where the water is to be transferred for use;
3. The legal description of the parcel of land where the well or wells are located;
4. The legal description of the parcel of land where the water is to be transferred for use;

5. If an existing well is involved, the Nebraska Department of Natural Resources water well registration number for such well;
6. The nature of the proposed use;
7. The maximum rate of withdrawal from the well or wells to be used as the source of water for the transfer;
8. The range of the maximum and average amounts of water proposed to be withdrawn and transferred on an annual basis;
9. An aerial photo or photos showing the proposed point(s) of withdrawal, the proposed point(s) of delivery, and the transfer route(s);
10. Identification of any alternative sources of surface water or ground water available to the applicant for the proposed use and the reasons why use of such alternative source or sources is not being sought;
11. A statement of the effects of the proposed withdrawal, transfer and use on existing ground water users, on existing surface water appropriators, and on ground water and surface water supplies needed to meet present or reasonable future demands or to comply with any other interstate water compacts or decrees or any other formal state contract or agreement;
12. Any other information the District deems relevant to its criteria for approval of the proposed withdrawal, transfer and use.

An incomplete application shall be returned to the applicant for corrective action. If a properly completed application is not returned within sixty (60) days thereafter, the application shall be cancelled.

5-8.1 Application Fees. In accordance with Neb. Rev. Stat. § 46-691.03, an application for a permit for the withdrawal, transport and use of ground water to augment water supplies in any Nebraska wetland or natural stream for the purpose of benefiting fish or wildlife or for producing other environmental or recreational benefits shall be accompanied by a non-refundable fee of \$50 payable to the District.

5-8.2 Public Comment on Applications. Prior to taking action on any transfer permit application, with the exception of a Transfer of a Type of Use, the District shall provide an opportunity for public comment on such application at a regular or special board meeting for which advance published notice of the meeting and the agenda therefore have been given consistent with Neb. Rev. Stat. §§ 84-1414.

5-8.2.1 The District shall proceed by publishing, in a newspaper of general circulation of the county or counties in which the proposed transfer is to take place, any applications for the transfer of ground water. The District will allow the general public thirty (30) days from date of publication to file a formal objection with the District. If a member of the public chooses to file a formal objection against the proposed transfer, a fifty dollar (\$50) fee will be charged and a public hearing will be scheduled. If a member of the public chooses not to file a formal objection against the proposed transfer, but would still like to express his/her concerns, they may address the staff and/or Board directly with the understanding that the final and immediate decision on the proposed transfer will be left to the discretion of the staff and/or Board without further public comment.

5-8.3 Additional Information Requested. Prior to taking action on any application for a permit governed by these rules, the District may request the applicant to provide additional information to support his or her application. Failure of the applicant to provide the requested information may be grounds for denying the permit.

5-8.4 Approval of Transfers. In accordance with Neb. Rev. Stat. §46-739(k) the District shall deny or condition the approval of any such transfer when and to the extent such action is necessary to:

1. Ensure the consistency of the transfer with the purpose or purposes for which the District's Ground Water Management Area was designated;
2. Prevent adverse effects on other ground water users or on surface water appropriators;
3. Prevent adverse effects on the state's ability to comply with an interstate compact or decree or to fulfill the provisions of any other formal state contract or agreement; and
4. Otherwise, protect the public interest and prevent detriment to the public welfare.

5-8.5 District Considerations Relative to Public Interest and Public Welfare. When determining whether it would be in the public interest or detrimental to the public welfare to approve an application for a withdrawal and transfer subject to Chapter 5, the District shall consider the following:

1. Whether the proposed use is a beneficial use of ground water;
2. The availability to the applicant of alternative sources of surface water or ground water for the proposed withdrawal, transport, and use;
3. Any negative effect of the proposed withdrawal, transfer, and use on ground water or surface water supplies needed to meet reasonable future demands for water within the state;
4. The cumulative effects of the proposed withdrawal, transfer, and use relative to the matters listed in subsections 1-3 of Rule 5-8.5;
5. If the ground water will be transferred to and used in any other natural resources district, whether that District has approved such transfer and use and whether such transfer and use would be consistent with the rules and regulations of such other District; and
6. Any other factors which the District deems relevant to protect the public interest and prevent detriment to the public welfare.

5-8.6 Permit to Construct New Ground Water Well. If a transfer of the point of withdrawal is approved under these rules and regulations the applicant must apply for a permit to construct a new ground water well as provided in Rule 1-3. If the permit is for a transfer of the point of withdrawal, approval of such permit will be conditioned on (1) the original well or wells will be decommissioned within thirty (30) days of the new well or wells being completed and, (2) the new well or wells will not consumptively use more water than the original well or wells unless an offset is provided. Permits to construct a well under this provision can be granted notwithstanding the provisions of Rule 1-8.

5-8.7 Conditions on Permits Issued. All permits issued by the District for transfers of ground water shall be conditioned on the following:

1. The applicant's installation and maintenance of a flow meter on the well or wells that will be used for withdrawal;

2. One percent of the total amount of transferred ground water from any type of transfer shall be placed into a ground water banking system administered by the District. The water in this account will be used for any offsets required of the NPNRD in accordance with the requirements of Section 46-740;
3. The applicant's submission of an annual report stating the total volume of water pumped from said well or wells in the preceding year, or, at the discretion of the Board, allow North Platte NRD personnel to read and record data from said flow meter or flow meters; and
4. Compliance with all applicable statutes and rules and regulations, including any statutes or rules and regulations adopted after the District's approval of the permit; and
5. The withdrawal and transfer is and continues to be consistent with the matters listed in Rule 5-8.4.
6. Transfers are approved according to current conditions, but are subject to future allocation rules. If an allocation falls below the NCIR due to a change in allocation, the previous transfer approval will be adjusted to conform to the new allocation.

5-9 Variances. Unless otherwise provided by law or these rules and regulations, the Board may grant a variance from the rules and regulations listed in Chapter 5 upon good cause shown, provided those variances may only be granted if third parties are not harmed or prejudiced. The request for a variance must provide all the information requested by the District on forms provided by the District, and any other additional information requested by the District.

5-9.1 If a request for a variance from rules and regulations listed in Chapter 5 is made, the District shall publish, in a newspaper of general circulation of the county where the transfer is to take place, any requests for variance of these transfer rules. The District will allow the general public thirty (30) days from date of publication to file a formal objection with the District against the variance. If a member of the public chooses to file a formal objection to the variance, a fifty dollar (\$50) fee will be charged. If a formal objection is filed, the variance request shall be acted upon by the Board following a public hearing. If a member of the public chooses not to file a formal objection of the variance, but would still like to express his/her concerns, they may address the Board directly with the understanding that the final and immediate decision on the variance will be left to the discretion of the Board without further public comment.

5-10 Enforcement of Rules and Regulations. These rules and regulations shall be in accordance with applicable state statutes and enforced by the District through the use of cease and desist orders or other measures as provided for in Chapter 2 of these rules and regulations.

Chapter 5—Transfer of Ground Water was adopted by Order No. NPNRD-13 by the North Platte NRD Board of Directors on December 13, 2007 and effective January 11, 2008; amended by Order No. NPNRD-14 on July 10, 2008 and effective August 7, 2008.

CHAPTER 6 - ALLOCATION OF GROUND WATER

6-1 Area Designation and Boundaries. The area subject to Chapter 6 of these rules and regulations is the entire geographic area designated as the overappropriated area of the District, with the exception of lands lying within the Pumpkin Creek Basin Ground Water Management Sub-Area as defined in Order NPNRD-4.

6-2 Allocation of Ground Water. Any ground water use that is not certified in accordance with Chapter 3-Certification of Ground Water will not receive an allocation unless an offset is provided in accordance with Rule 5-2 Offsets. Ground water shall be allocated among certified uses commencing in Water Year 2008-2009 provided:

1. Use of ground water from a regulated well must be in compliance with Chapter 3 and Chapter 4 of these Rules and Regulations.
2. Use of ground water in excess of the available water will be penalized in accordance with these Rules and Regulations.
3. The amount of the allocation for each of the ground water uses specified in this Chapter will be reviewed annually by the Board.

6-2.1 Allocation for Certified Irrigated Acres. Each certified irrigated acre is hereby granted a base allocation of eighteen (18) acre-inches per certified irrigated acre per water year. All water measured through a flow meter will be considered ground water regardless of the source of the water.

Certified irrigated tracts which are not being irrigated while enrolled in federal or state programs that require participants to set aside crop land for other uses or otherwise remove such land from crop production, such as the Conservation Reserve Program (CRP), Conservation Reserve Enhancement Program (CREP), Environmental Quality Incentive Program (EQIP), or others, shall not receive a total current allocation while the land is enrolled unless the program guidelines allow irrigation for purposes such as establishing vegetative cover. It is the owner's responsibility to notify the District when a certified irrigated tract or tracts are enrolled in or removed from such programs. The District will not grant a total current allocation for any certified irrigated tract removed from such a program unless it receives written notification on forms provided by the District of the removal. Prior to the commencement of irrigation on such certified irrigated tract, the tract must be granted a total current allocation.

6-2.1.1 Use of Available Water. The following provisions for the use of available water shall apply:

1. If the amount of available water is equal to or less than zero, no ground water may be used on the tract until such time as the amount of available water is more than zero.
2. In the event of an available water overdraft, the District shall reduce the following water year's total current allocation by the amount of the available water overdraft plus the amount of the available water overdraft penalty.

6-2.2 Allocation for Livestock Operations. Each livestock operation certified by the District is hereby granted an allocation equal to twenty (20) gallons per day per animal unit of certified capacity per water year.

6-2.3 Allocation for Other Uses. To receive an allocation for other uses, the ground water user must submit an application to the District on forms provided by the District. The application must receive approval from the Board before the ground water use may begin. In considering whether to approve an application, the Board shall consider:

1. The historical ground water use by the applicant;
2. Relevant information about the ground water use provided by the applicant;
3. Information from generally recognized experts and authorities in the relevant field;
4. Information from governing or regulatory bodies and organizations in the relevant field;
5. Other information which the Board considers relevant, reliable and unbiased.

6-3 Carry Forward. If there is unused available water at the end of the water year, then the lesser amount of the total unused available water or fifty (50) percent of the total current allocation may be carried forward and added to the total current allocation for the next water year. There will be no carry forward of any allocations for livestock operations or other uses.

Chapter 6—Allocation of Ground Water was adopted by Order No. NPNRD-15 by the North Platte NRD Board of Directors on December 11, 2008 effective January 12, 2009.

CHAPTER 7 – RULES AND REGULATIONS FOR THE PUMPKIN CREEK BASIN GROUNDWATER MANAGEMENT SUB-AREA

7-1 Area Designation and Boundaries. The area subject to Chapter 7 of these rules and regulations is the entire area known as the Pumpkin Creek Basin Groundwater Management Sub-Area, which is the groundwater management sub-area established by Order No. NPNRD-4 adopted on February 15, 2001, by the North Platte Natural Resources District Board of Directors, pursuant to Sec. 46-712, Nebraska Revised Statutes, with an effective date of March 21, 2001. The geographic boundaries are identified on Attachment A, incorporated herein by reference. The stratigraphic boundaries include the following geologic units: The Tertiary Oligocene Brule Formation, Quaternary Alluvium, Quaternary Colluvium, and eolian deposits, as defined by the Conservation and Survey Division of the University of Nebraska-Lincoln. The purposes of the Pumpkin Creek Basin Groundwater Management Sub-Area are: (1) the protection of groundwater quantity; (2) the protection of groundwater quality from non-point source contamination; and (3) the integrated management of hydrologically connected groundwater and surface water. In the event a conflict or discrepancy occurs between these rules and Chapters 1-6 of the District's Rules and Regulations for Enforcement of the Nebraska Groundwater Management and Protection Act, the rules for Pumpkin Creek Basin will be followed.

7-2 Definitions. As used in these rules and regulations:

7-2.1 Acre-foot shall mean 325,848 gallons of water.

7-2.2 Acre-inch shall mean 27,154 gallons of water.

7-2.3 Allocation shall mean the allotment of a specified total number of acre-inches of irrigation water per certified irrigated acre per water year; or the allotment of a specified quantity of water per water year for livestock operations or other groundwater uses.

7-2.4 Allocation unit shall consist of two or more certified irrigated tracts and the water wells that provide water to such tracts, as designated under the provisions of these rules and regulations, so that the allocations of more than one certified irrigated tract may be combined. There are two types of allocation units:

7-2.4.1 A pre-existing allocation unit consists of two or more certified irrigated tracts that meet the following criteria:

1. They are irrigated by two or more interconnected wells
2. They are owned by the same person.
3. The wells were interconnected as of December 19, 2002.

7-2.4.2 A designated allocation unit consists of two or more certified irrigated tracts that meet the following criteria:

1. They are owned by the same person. Exception: If a certified irrigated tract's only source of groundwater is a well owned by a different landowner, that certified irrigated tract may be combined in a designated allocation unit with other certified irrigated tracts owned by the well owner, provided that the designated allocation unit meets all other criteria herein.

2. They are irrigated by wells that are not interconnected with any wells that supply any other certified irrigated tracts.

3. They are irrigated by wells located within a square measuring 1 mile by 1 mile.

4. If any of the certified irrigated tracts are supplied by two or more wells, at least one well from each tract must be located within the 1-mile by 1-mile square.

Landowners may apply to create designated allocation units on forms provided by the District, subject to any deadlines in these rules and regulations.

7-2.5 Allocation overdraft shall mean the amount of water, in acre-inches, by which the used water exceeds the available water during a water year.

7-2.6 Allocation penalty shall mean a penalty assessed against an owner who incurs an allocation overdraft. An allocation penalty is expressed in acre-inches and is subtracted from the following water year's available water.

7-2.7 Animal unit shall mean a unit of measurement for any livestock operation calculated by adding the following numbers:

The number of slaughter and feeder cattle multiplied by 1.0,

plus the number of mature dairy cattle or cow/calf pairs multiplied by 1.4,

plus the number of swine weighing fifty-five pounds or more multiplied by 0.4,

plus the number of weaned pigs weighing less than fifty-five pounds multiplied by 0.04,

plus the number of sheep multiplied by 0.1,

plus the number of horses multiplied by 2.0,

plus the number of chickens multiplied by 0.01,

plus the number of turkeys multiplied by 0.02,

plus the number of ducks multiplied by 0.2.

7-2.8 Aquaculture shall mean the agricultural practice of controlled propagation and cultivation of aquatic plants or animals for commercial purposes. Unless the context otherwise requires, the term agriculture shall be construed to include aquaculture.

7-2.9 Available water shall mean the total amount of groundwater that may be used to irrigate a certified tract during a water year. It is calculated by adding the total current allocation to the amount of unused water brought forward, if any, and then subtracting the following amounts, as applicable: allocation overdraft, allocation penalty, well overdraft and well overdraft penalty.

7-2.10 Certified livestock operation shall mean a livestock operation in Pumpkin Creek Basin Groundwater Management Sub-Area that has been certified by the District to allow the use of groundwater for livestock production according to the process described in these rules and regulations.

7-2.11 Certified irrigated tract shall mean a parcel of land in Pumpkin Creek Basin Groundwater Management Sub-Area that has been certified by the District to allow the use of groundwater for irrigation according to the process described in these rules and regulations.

7-2.12 Certified other use shall mean an activity taking place in Pumpkin Creek Basin Groundwater Management Sub-Area, other than irrigation or livestock production, that has been certified by the District to allow the use of groundwater according to the process described in these rules and regulations.

7-2.13 Domestic well shall mean a well constructed for the purpose of withdrawing groundwater for human needs as it relates to health, fire control and sanitation. This does not include any well drilled for a public water system.

7-2.14 Livestock operation shall mean a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of 100 days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Livestock operation does not include 250 animal units or less that is confined in a lot and aquaculture facility.

7-2.15 Monitoring well shall mean a well, constructed to the appropriate well standards, for the purpose of withdrawing water, collecting water quality samples, and providing hydrogeologic information.

7-2.16 Observation well shall mean a well constructed to the appropriate well standards for monitoring static water levels.

7-2.17 Range livestock shall mean livestock that are kept in pastures, on rangeland, or on other grazing lands and allowed to feed on vegetation growing therein.

7-2.18 Replacement well, for the purposes of Chapter 7 of these rules and regulations, shall mean a water well which (a) replaces an abandoned water well within three years of the last operation of the abandoned water well or replaces a water well that will not be used after construction of the new water well and the original water well will be abandoned and properly decommissioned within 30 days after such construction; and (b) is constructed to provide water to the same tract of land served by the water well being replaced; PROVIDED that (a) such replacement well is not designed or constructed to pump more water than the well it replaces; (b) no more than one replacement well may be used to replace the original well; (c) the replacement well must be used for the same purpose as the original water well; and (d) no replacement well may be installed for any well that has not been certified according to Chapter 7 rules and regulations.

7-2.19 Total current allocation shall mean the amount of groundwater allocated to a certified irrigated tract during any water year, expressed in acre-inches, and obtained by multiplying the total acres in a certified irrigated tract by the allocation.

7-2.20 Used water shall mean the total amount of irrigation water, in acre-inches, applied to a certified irrigated tract or allocation unit during a water year.

7-2.21 Unused water shall mean the difference, expressed in acre-inches, between the available water for a certified irrigated tract or allocation unit and the used water for the same tract or unit.

7-2.22 Water brought forward shall mean the portion of unused water from the previous water year that may be added to the available water during the current water year.

7-2.23 Water year shall consist of a one-year period beginning October 15 and ending October 14 of the following year.

7-2.24 Well cap shall mean the limit on the amount of water that can be pumped from a well during a water year.

7-2.25 Well overdraft shall mean the amount of water, in units of acre-inches, by which the water pumped from a water well during a water year exceeds the well cap.

7-2.26 Well overdraft penalty shall mean a penalty assessed against an owner who incurs a well overdraft. A well overdraft penalty is expressed in acre-inches and is subtracted from the following water year's available water.

7-3 Permits to construct wells. Notwithstanding the list of wells in Chapter 1 of the District's Rules and Regulations for Enforcement of the Nebraska Groundwater Management and Protection Act, permits to construct water wells shall be required for all water wells within the Pumpkin Creek Basin Groundwater Management Sub-Area, regardless of the pumping capacity of the well, except wells that supply water for human needs as they relate to health, fire control, and sanitation, or water sources used to water range livestock.

7-4 Moratorium. All lands within the Pumpkin Creek Basin Groundwater Management Sub-Area are closed to the issuance of any additional permits to drill water wells, except water wells for which permits may be granted in accordance with these rules and regulations. The sub-area may be reopened to the issuance of additional permits at any time the board of directors determines that conditions warrant new permits.

7-5 Wells exempt from moratorium. Replacement water wells shall be exempt from the moratorium on permits established in these rules and regulations, provided that such replacement well must comply with all rules and regulations established by the District. Any replacement well shall be subject to the same rules and regulations, and any restrictions as the well it replaces.

7-6 Certification of Groundwater Uses. Beginning February 1, 2002, no person may use groundwater in the Pumpkin Creek Basin Groundwater Management Sub-Area, other than for domestic or household purposes or to water range livestock, until after the District has certified the use of groundwater by that person for that specified purpose.

The procedure for applying for, considering, and granting or denying certification is as follows:

7-6.1 Irrigation. Any person who uses groundwater to irrigate crops must obtain certification of each irrigated tract by applying to the District on forms provided by the District. The applicant shall furnish the following information with his or her application:

1. Location of each irrigated tract by legal description to the nearest quarter section.
2. An aerial photo or map of the tract.
3. The size of each irrigated tract, in acres.
4. The registration number(s) of any wells used to irrigate each tract.
5. Any sources of irrigation water other than groundwater.
6. Any other information deemed necessary by the District.

7-6.2 Livestock operations. Any person who uses groundwater for any type of livestock operation (other than range livestock) must obtain certification of the production capacity of such livestock operation by applying to the District on forms provided by the District. The applicant shall furnish the following information with his or her application:

1. Location of the livestock operation by legal description to the nearest quarter section.
2. An aerial photo, site plan or map of the livestock operation.
3. The type of livestock kept at the operation.
4. The production capacity of the livestock operation, as of the effective date of these rules and regulations. Production capacity shall be expressed in animal units, as defined by the Nebraska Livestock Waste Management Act, or other appropriate units, such as total number of livestock or total weight of livestock. The District may require that an applicant submits a copy of any current state operating permit for the livestock operation.
5. The registration number(s) of any wells used to provide water to the livestock.
6. Any other information deemed necessary.

7-6.3 Other purposes. Any person who uses groundwater for any purpose other than those listed in Rules 7-6.1 or 7-6.2 must obtain certification of that groundwater use by applying to the district on forms provided by the District. The applicant shall furnish the following information with his or her application:

1. Location of water use by legal description to the nearest quarter section.
2. An aerial photo, site plan or map.
3. The purpose for which groundwater is used.
4. The amount of groundwater used in Calendar Year 2000 (or the most recent year of operation).
5. The proportion of the groundwater used which was consumed and the disposition of the water not consumed. If the exact number is not known the applicant may provide an estimate.
6. The registration number(s) of any wells used to provide water.
7. Any other information deemed necessary.

7-6.4 Consideration of Applications and Decision on Certification. All applications for certification must be submitted to the District's office by October 1, 2001. In considering each application, the District may take into consideration the following:

1. Information submitted with the application;
2. Records of the U.S. Department of Agriculture;
3. Records of the county assessor;
4. Evidence submitted by the applicant or the District's staff;

5. Any other information deemed relevant by the District.

The District may request more information from an applicant. Certification will be based on the size and location of irrigated tracts, the capacity of livestock operations, or on the amount and purpose of other uses in calendar year 2000. Applicants who feel that information for the year 2000 does not reflect normal circumstances for that groundwater use may produce evidence to support their case. The District shall take this evidence into consideration in considering applications for certification.

A majority vote by the members of the board of directors present at an open meeting of the board shall be necessary for approval of an application for certification. The board, at its discretion, may grant temporary certification if there is not enough time or information for final determination.

7-6.5 Consideration of Late Applications. The District will consider applications for certification that were received after October 1, 2001, provided that the applicant can demonstrate to the board's satisfaction that:

1. The application meets other criteria in Rule 7-6.4.
2. If the parcel was not irrigated in 2000, it was for one of the following reasons:
 - a. It was enrolled in a USDA set-aside program, or
 - b. It was farmed by somebody other than the owner (such as a lessee or tenant farmer).
 - c. Any other reason deemed valid by the Board of Directors.

7-6.6 Changes in Certification. The Board may re-evaluate any determination on certification from time to time on its own motion or upon receiving an application for change in certification from an owner. Such application for change must be submitted on forms provided by the District. The board may approve changes if it finds that such changes would not increase the total use of groundwater or otherwise have detrimental effects on groundwater or surface water levels in the sub-area. The board may rescind any previously approved certification if it finds that (a) the application for certification contained any false or misleading information; or (b) that the groundwater user failed to meet any conditions stipulated in the certification or has violated any Rules or Regulations of Pumpkin Creek Basin Groundwater Management Sub-area.

Any change in property ownership that results in a certified groundwater use passing from one person to another must be reported to the District by the new property owner within 60 days of the completion of the transaction on forms provided by the District.

If for any reason including but not limited to consideration for receipt of funds paid by the District or by any other party, a landowner agrees to permanently discontinue irrigation on acres for which certification has previously been approved, the board shall rescind such certification to the extent it applies to those acres and revise any designated allocation units or pre-existing allocation units affected by the rescission.

Any time a certification is modified or rescinded, the District shall notify the applicable landowner or landowners by certified mail, of any changes in or rescission of a previously approved certification.

7-6.7 Appeals. Any groundwater user aggrieved by a determination of the board regarding certification of groundwater use may request a hearing before the District for

the purpose of reconsidering that decision. Such request shall be filed with the District within 30 days of board action on the groundwater user's application. Such hearing shall be conducted in accordance with the District's rules and regulations for informal, non-adjudicatory hearings unless a groundwater user requests a formal, adjudicatory hearing. The burden of proof shall be on the groundwater user to document that the District's decision should be modified.

7-7 Controls. The following Level II controls shall apply in the Pumpkin Creek Basin Groundwater Management Sub-Area:

7-7.1 Flow Meters. By May 1, 2003, or before the date a well is placed in operation, whichever date is later, and except as otherwise provided herein, the owners of all existing wells must install flow meters on such wells. Flow meters need not be installed on (a) domestic wells, (b) wells used to water range livestock, (c) monitoring wells, (d) observation wells, (e) wells used for ground heat exchangers, or (f) wells used for groundwater source heat pumps.

In cases where water from two or more wells is commingled, one flow meter may be installed at a point after the water has been commingled. If the water is used for irrigation, this point will be as near as possible to the device that is used to apply the water to the field. In cases where one well is used to irrigate several fields, the well owner may either (a) install a flow meter at each device used to apply irrigation water to a field, or (b) install one flow meter but keep accurate records of the amount of water applied to each field, expressed in acre-inches.

The flow meters shall be installed and maintained in accordance with the specifications contained or referenced herein. Each flow meter installed on or after the effective date of these rules and regulations shall comply with the applicable provisions of American National Standards Institute, American Water Works Association's standard number C704-92, as well as other technical specifications stated herein. In case of conflict, the specifications herein shall apply. Each flow meter shall be installed according to the manufacturer's specifications and calibrated to the pipe size. Calibration must maintain an accuracy of plus or minus two (2) percent of normal flow range. For all irrigation flow meters installed after the effective date of these rules and regulations, the meter registry shall have a visual volume recording totalizer that shall record in acre-inches. Flow meters installed for livestock or other groundwater uses shall record in gallons.

Flow meters installed prior to March 21, 2001, are exempt from the specifications contained herein and shall be known as non-conforming flow meters. However, when any such non-conforming flow meter is replaced, the replacement flow meter must conform to the specifications contained herein. In any event, all non-conforming flow meters must be replaced by May 1, 2005, with flow meters that conform to the specifications herein.

Except as specifically provided herein, it shall be a violation of these rules and regulations for any person to willfully injure, alter, remove, reset, adjust, manipulate, obstruct, disconnect from a power source, or in any manner interfere with or tamper with a flow meter within the Pumpkin Creek Basin Groundwater Management Sub-Area without District consent, or to cause, procure or direct any other person to do so. Removing any seal placed on a meter by the District will be considered tampering with a

meter. District personnel shall have the right to enter upon private property at any reasonable time, after giving notice, to carry out the District's responsibilities under the Nebraska Groundwater Management and Protection Act.

Each flow meter must be kept in working order and clear of debris, vegetative growth, or other material that would impede operation.

Any malfunctioning flow meter must be reported to the District office at Scottsbluff, Nebraska, within twenty-four (24) hours after discovery. Malfunctioning flow meters discovered on any day other than working days (weekends and holidays) shall be reported before the office closes on the first working day following the discovery. During the malfunctioning period, the owner shall use a method approved by the District to determine water consumption. The owner shall make all diligent effort to put the flow meter back into service as soon as reasonable, or to replace it if it cannot be repaired. When any flow meter is removed for servicing or replacement, the owner/operator must keep records of the flow meter reading.

7-7.2 Allocation of Groundwater. The District hereby determines that the permissible withdrawal of groundwater per water year within Pumpkin Creek Basin shall be 56,092 acre-feet. Groundwater shall be allocated among certified uses as described below. No person may use groundwater, other than for range livestock or human needs, until after receiving an allocation from the District for that use. No person may use more groundwater than allowed by these rules and regulations. The District may take any legal action authorized or permitted by law or by these rules and regulations to prohibit further withdrawal of groundwater whenever any groundwater user has, in any way, violated the amount, limitations, or conditions of an allocation. In the event of such action, the groundwater user may not withdraw any groundwater until complying with these rules and regulations. Groundwater shall be allocated among users as follows:

7-7.2.1 Allocation for Irrigation. Each certified irrigated tract is hereby granted an allocation of 12 acre-inches per acre per water year commencing with Water Year 2008-2009. Allocations are granted ONLY to certified irrigated tracts, designated allocation units, and pre-existing allocation units as defined in these rules and regulations. Certified irrigated tracts which are not being irrigated while enrolled in federal or state programs that require participants to set aside crop land for other uses or otherwise remove such land from crop production, such as the Conservation Reserve Program (CRP), Environmental Quality Incentive Program (EQIP), or others, shall not receive an allocation while the land is enrolled unless the program guidelines allow irrigation for purposes such as establishing vegetative cover. It is the owner's responsibility to notify the District when an irrigated tract or tracts are enrolled in or removed from such programs. The District will not grant an allocation for any tract removed from such a program unless it receives notification before the beginning of the water year for which the allocation applies.

A. Irrigation of a Certified Irrigated Tract. The following provisions apply to allocation of irrigation water for certified irrigated tracts:

- i. The water available in any water year shall be calculated as specified in Rule 7-2.9 and Rule 7-7.2.1.
- ii. If the amount of water available is equal to or less than zero, no water may be pumped on the tract until such time as the amount of available water is more than zero.

iii. Up to 50 percent of a total current allocation which is unused in a water year may be brought forward for use during the following water year, provided that the well or wells that provide water to the tract are capable of being pumped and are equipped with a flow meter in compliance with these rules and regulations. The total amount of water pumped is still subject to the well cap (see v. below).

iv. A portion of the following year's total current allocation may be used during the current water year. The total amount of water pumped is still subject to the well cap (see v. below). In such cases, the available water for the following year shall be reduced by the amount used.

v. Well cap: The total amount of groundwater pumped from any well may not exceed 24 acre-inches per acre per water year. If an irrigator exceeds the well cap, the amount pumped in excess shall be known as a well overdraft. The District shall reduce the following year's total current allocation by an amount equal to the well overdraft and an additional equal amount known as a well overdraft penalty.

vi. The water available may be used on any or all of the tract.

B. Irrigation of Pre-Existing Allocation Units. The total amount of water that may be applied to all the irrigated acres in a pre-existing allocation unit shall be calculated annually on forms provided by the District, as follows:

i. The water available in any water year shall be calculated as follows: (1) Compute the sum of the total current allocations for all certified irrigated tracts in the allocation unit; (2) add any unused water brought forward from the previous water year (limited to no more than 50 percent of the previous water year's allocation); and (3) subtract any allocation overdraft and allocation penalty brought forward from the previous water year (see iii. below).

ii. If the calculations described in i. above, result in a number of zero or less, no water may be pumped on the allocation unit until such time as the available water is above zero again.

iii. If the water used during a water year exceeds the water available, this amount is known as an allocation overdraft. In the event of an allocation overdraft, the District shall reduce the following year's available water the amount of the overdraft and also by an equal amount known as an allocation penalty.

iv. Wells that were not interconnected as of December 19, 2002, may not be connected with any other wells.

C. Irrigation of Designated Allocation Units. An allocation unit must be designated on or before May 1 of the year it is to take effect, on forms provided by the District. Within designated allocation units, a flow meter must be installed on every well. The total amount of water that may be applied to all the irrigated acres in a designated allocation unit shall be calculated annually on forms provided by the District, as follows:

i. The water available in any water year shall be calculated as follows: (1) Compute the sum of the total current allocations for all irrigated tracts in the allocation unit; (2) add any unused water brought forward from the previous

water year (limited to no more than 50 percent of the previous water year's allocation); (3) subtract any allocation overdraft and allocation penalty brought forward from the previous water year (see iii. below); and (4) subtract any well overdraft and well overdraft penalty brought forward from the previous year (see iv. below).

ii. If the calculation of water available, as described in i., above, results in a number of zero or less, no water may be pumped on the allocation unit until such time as the available water is above zero again.

iii. If the water used during a water year exceeds the water available, this amount is known as an allocation overdraft. In the event of an allocation overdraft, the District shall reduce the following year's available water the amount of the overdraft and also by an equal amount known as an allocation penalty.

iv. The following well cap shall apply to designated allocation units: In any water year, no more than 24 acre-inches per acre shall be pumped from any single well not connected to another well. The well cap will be based on the amount of acres watered by the well as certified by the District. If an irrigator exceeds the well cap, the amount pumped in excess shall be known as a well overdraft. The District shall reduce the following year's available water by an amount equal to the well overdraft and an additional equal amount known as a well overdraft penalty.

v. Once approved, each designated allocation unit will exist until the ownership status of any certified irrigated tract within the allocation unit changes. In such case, the parties involved may agree in writing how the available water should be divided among all tracts formerly in the designated allocation unit for the remainder of the water year and the subsequent water year. If the District is not presented with such a written agreement, the District may establish the amount of water available for each tract by prorating each irrigated tract's acreage as a percentage of total acreage of irrigated tracts in the former designated allocation unit, subject to any applicable allocation overdraft, allocation penalty, well overdraft, and well overdraft penalty.

7-7.2.2. Allocation for Livestock. Each livestock operation certified by the District is hereby granted an annual allocation equal to 20 gallons per day per animal unit of capacity per water year, commencing October 15, 2003.

7-7.2.3. Allocation for Other Uses. Each user of groundwater other than irrigation and livestock operations must apply for and receive an allocation from the District prior to using groundwater. For the use of groundwater during any water year, the owner of each well used for such purposes shall, on or before March 1, of that year, apply for an allocation on forms provided by the District. Thereafter each groundwater user must apply for an annual allocation by January 1 of each year. Such applications must receive approval from the board before groundwater use may begin. In considering whether to approve such applications, the board shall consider (1) the historical groundwater use by the applicant; (2) relevant information about the groundwater use provided by the applicant; (3) information from generally recognized experts and authorities in the relevant field; (4)

information from governing or regulatory bodies and organizations in the relevant field; and (5) other information which the board considers relevant, reliable and unbiased.

7-8 Annual Review. The District’s Board of Directors shall review these rules after the end of every water year. The District may amend, reduce, increase or make subject to limitations any or all allocations thereafter upon notice and hearing.

7-9 Enforcement. Employees of the District or designated agents of the District may enter upon private property during reasonable hours to carry out the responsibilities and enforcement specified under these rules and regulation and the Nebraska Groundwater Management and Protection Act including but not limited to reading and inspection of flow meters to determine proper functioning, after notice is given to the landowner.

The District may enforce “Chapter 7-Rules and Regulations for the Pumpkin Creek Basin Groundwater Management Sub-Area” by issuing cease-and-desist orders, following 10 days’ notice to the person affected stating the contemplated action and in general the grounds for the action and following reasonable opportunity to be heard. Enforcement of this section shall be in accordance with applicable state statute and the North Platte Natural Resources District Rules and Regulations, Chapter 2 - Procedures for Enforcement.

Attachment A
Legal Description of Geographic Boundaries
of Pumpkin Creek Basin Groundwater Management Sub-Area

Beginning on the Wyoming-Nebraska state boundary line in the Northwest corner of section 31, T20N, R58W, Banner County, Nebraska, then East to the Northeast corner of section 32, T20N, R58W, then North to the Northwest corner of section 9, T20N, R58W, then East to the Northeast corner of section 9, T20N, R58W, then North to the Northwest corner of section 3, T20N, R58W, then East to the Southwest corner of section 36, T21N, R58W, then North to the Northwest corner of section 36, T21N, R58W, then East to the Northeast corner of section 34, T21N, R57W, then South to the Southwest corner of section 35, T21N, R57W, then East to the Northeast corner of section 4, T20N, R56W, then South to the Southeast corner of section 4, T20N, R56W, then East to the Northeast corner section 12, T20N, R56W, then South to the Southeast corner of section 12, T20N, R56W, then East to the Northeast corner of section 16, T20N, R55W, then South to the Southeast corner of section 16, T20N, R55W, then East along the Scotts Bluff-Banner County line to the Northeast corner of section 22, T20N, R55W, then South into Banner County to the Southeast corner of section 22, T20N, R55W, then East to the Northeast corner of section 25, T20N, R55W, then South to the Southeast corner of section 25, T20N, R55W, then East to the Northeast corner of section 32, T20N, R54W, then South to the Southeast corner of section 32, T20N, R54W, then East to the Northeast corner of section 6, T19N, R53W, Then South to the Southeast corner of section 6, T19N, R53W, then East to the Northeast corner of section 8, T19N, R53W, then South to the Southeast corner of section 8, T19N, R53W, then East into Morrill County to the Northeast corner of section 16, T19N, R52W, then South to the Southeast corner of section 16, T19N, R52W, then East to the Southeast corner of section 15, T19N,R50W, then North to the intersection of the Belmont Canal and the East section line of section 15, T19N, R50W, then following the center line of the Belmont Canal to the East section line of section 24, T19N, R50W, then South to the Morrill County line at the

Southeast corner of section 13, T17N, R50W, then West to the intersection of the Banner County and Morrill County line located on the Southwest corner of section 18, T17N, R52W, then South to the Southeast corner of Banner County located on the Southeast corner of section 36, T17N, R53W, then West to the Southwest corner of section 34, T17N, R54W, then North to the Northwest corner of section 34, T17N, R54W, then West to the Southwest corner of section 28, T17N, R54W, then North to the Northwest corner of section 21, T17N, R54W, then East to the Northeast corner of section 21, T17N, R54W, then North to the Northwest corner of section 10, T17N, R54W, then east to the Southeast corner of section 4, T17N, R53W, then North to the Northeast corner of section 28, T18N, R53W, then West to the Northwest corner of section 28, T18N, R53W, then North to the Northeast corner of section 20, T18N, R53W, then West to the Northwest corner of section 24, T18N, R54W, then South to the Southwest corner of section 24, T18N, R54W, then West to the Northwest corner of section 30, T18N, R57W, then South to the Southwest corner of section 30, T18N, R57W, then West to the Northwest corner of section 35, T18N, R58W, then South to the Southwest corner of section 35, T18N, R58W, then West to the Nebraska-Wyoming state line, near the Southwest corner of section 31, T18N, R58W, then North along the Nebraska-Wyoming state line to the point of beginning.

Chapter 7-Rules & Regulations for the Pumpkin Creek Basin Groundwater Management Sub-Area (formerly known as Section D, effective March 21, 2001) were adopted by Order No. NPNRD-16 by the North Platte NRD Board of Directors on December 11, 2008 and effective January 12, 2009.