

CHAPTER 7 – ALLOCATION OF GROUND WATER FOR THE PUMPKIN CREEK BASIN GROUND WATER MANAGEMENT SUBAREA

7.1 Area Designation and Boundaries

7.1.1 The area subject to Chapter 7 of these rules and regulations is the Pumpkin Creek Basin Ground Water Management Subarea as defined in Order Number NPNRD-4.

7.2 Conditions for Allocation of Ground Water

7.2.1 Certified irrigated acres will not receive an allocation unless a flow meter has been installed in accordance with Chapter 4 of these rules and regulations on the regulated well(s) or irrigation system serving such acres and those acres are physically capable of being supplied ground water through an irrigation system.

7.2.2 Livestock operations and certified uses other than irrigation and livestock operations will not receive an allocation unless a flow meter has been installed in accordance with Chapter 4 of these rules and regulations on the regulated well(s) serving the livestock operation or other certified ground water use.

7.3 Allocation of Ground Water for Certified Irrigated Acres

7.3.1 **Allocation** - The ground water allocation for each certified irrigated acre is sixty (60) acre-inches per certified irrigated acre per allocation period. The allocation period shall consist of five (5) consecutive water years beginning in Water Year 2015. The base allocation for each certified irrigated acre is twelve (12) acre-inches per certified irrigated acre per water year.

7.3.2 Pre-existing Allocation Units (PAUs)

7.3.2.1 The total current allocation for each certified irrigated tract within a PAU will be combined.

7.3.2.2 A PAU will only be designated in cases where it is not possible for the District to determine the amount of ground water applied to one or more certified irrigated tracts due to (1) a change in ownership of a certified irrigated tract(s) or a portion of a certified irrigated tract(s); (2)(a) a change in the configuration of regulated well(s) and/or (b) a change in the location of flow meter(s) measuring the withdrawal of ground water from regulated well(s) serving one or more certified irrigated tract(s).

7.3.2.3 A PAU will remain intact unless (1) there is a change in ownership of one or more of the certified irrigated tract(s) or portion of a certified irrigated tract(s) within a PAU; (2) one or more of the a certified irrigated tract(s) or portion of a certified irrigated tract(s) within the PAU is enrolled in a government program requiring cessation of ground water irrigation for the period of enrollment; or (3) there is a change (a) in the configuration of the regulated well(s) serving one or more of the certified irrigated tract(s) within the PAU and/or (b) in the location of the flow meter(s) measuring the withdrawal of ground water from such regulated well(s). If such change occurs, the PAU will be rescinded, and, if applicable, a new PAU containing the remaining certified irrigated tract(s) unaffected by such change will be designated.

7.3.2.3.1 The landowner must notify the District within sixty (60) days of a change in ownership of a certified irrigated tract(s) or a portion of a certified irrigated tract(s) within a

PAU and/or a change in the configuration of the regulated well(s) serving one or more of the certified irrigated tract(s) within a PAU and/or the location of the flow meter(s) measuring the withdrawal of ground water from such regulated well(s).

7.3.2.4 If a PAU is rescinded by the District, the certification for each certified irrigated tract within the original PAU will also be rescinded and each tract will be certified according to the modified status of each tract.

7.3.2.5 If a PAU is rescinded by the District, the remaining available water in the PAU will be prorated to the separate certified irrigated tract(s) based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract, unless there is a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tract(s).

7.3.2.5.1 In the case of a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tract(s), the written agreement must be provided to the District within thirty (30) working days following the PAU rescission. Failure to do so will result in the available water being prorated pursuant to Rule 7.3.2.5.

7.3.3 Designated Allocation Units (DAUs)

7.3.3.1 All DAUs established prior to January 1, 2015, will remain intact unless (1) there is a change in ownership of any of the certified irrigated tracts or portion of a certified irrigated tract within a DAU or (2) a certified irrigated tract or portion of a certified irrigated tract within a DAU is enrolled in a program requiring cessation of ground water irrigation for the period of enrollment in the program. In such cases, the DAU will be rescinded by the District.

7.3.3.1.1 The landowner(s) must notify the District within sixty (60) days of a change in ownership of a certified irrigated tract(s) or a portion of a certified irrigated tract(s) within the DAU or enrollment of a certified irrigated tract(s) or a portion of a certified irrigated tract(s) within the DAU in a temporary irrigation retirement program requiring cessation of irrigation for the period of enrollment in the program.

7.3.3.1.2 The landowner of a DAU, or a minimum of one landowner in the case of a DAU comprised of certified irrigated tracts under multiple ownerships, established prior to January 1, 2015, may relinquish such DAU by signing a form, provided by the District, by the end of the working day on May 15 of the water year in which the DAU is to be relinquished.

7.3.3.1.3 Any certified irrigated tracts that were within a DAU that was established prior to January 1, 2015, that has been relinquished by the landowner, or a minimum of one landowner in the case of a DAU comprised of certified irrigated tracts under multiple ownerships, or rescinded by the District prior to the end of the current allocation period may be included in a new DAU, provided the provisions of Rule 7.3.3.2 are met.

7.3.3.2 Certified irrigated tracts and the corresponding available water for each tract may be combined into DAUs provided the following criteria are met:

7.3.3.2.1 All regulated wells and at least a portion of each certified irrigated tract to be included within the DAU must be (1) within the geographic boundaries of a single Land Use Zone as delineated by the URF analysis completed using the Western Water Use

Management model and (2) within a floating square area measuring a maximum of three (3) miles by three (3) miles.

7.3.3.2.2 Pre-existing allocation units may be included within a DAU.

7.3.3.2.3 The certified irrigated tracts and regulated wells to be included within the DAU are owned by the same person unless the certified irrigated tracts and regulated wells to be included within the DAU are under different ownership but have the same operator. In such cases, the operator and all landowners must sign the DAU application form in accordance with Rule 7.3.3.3.

7.3.3.2.4 A certified irrigated tract cannot be included in more than one DAU.

7.3.3.3 In order to establish a DAU, the operator and/or landowner(s) must apply to the District, on forms provided by the District, by the end of the working day on May 15 of the water year in which the DAU is intended to be established.

7.3.3.4 If approved by the District, the DAU will remain in effect until the end of the current allocation period, except for those DAUs established prior to January 1, 2015, unless rescinded by the District or relinquished by the landowner, or a minimum of one landowner in the case of a DAU comprised of certified irrigated tracts under multiple ownerships.

7.3.3.4.1 The DAU will be rescinded by the District if any of the following situations exist: (1) the ownership of a certified irrigated tract(s) or a portion of a certified irrigated tract(s) within the DAU changes; (2) a certified irrigated tract(s) or portion of a certified irrigated tract(s) within the DAU is enrolled in a temporary irrigation retirement program which requires cessation of ground water irrigation for the period of enrollment in the program; (3) a regulated well(s) serving a certified irrigated tract(s) within the DAU is replaced in a location such that the criteria in Rule 7.3.3.2 are no longer met; or (4) any other circumstance in violation of the District rules and regulations or federal or state law.

7.3.3.4.1.1 The landowner(s) must notify the District within sixty (60) days of a change in ownership of a certified irrigated tract(s) or a portion of a certified irrigated tract(s) within the DAU or enrollment of a certified irrigated tract(s) or a portion of a certified irrigated tract(s) within the DAU in a temporary irrigation retirement program requiring cessation of irrigation for the period of enrollment in the program.

7.3.3.4.2 The landowner, or a minimum of one landowner in the case of a DAU comprised of certified irrigated tracts under multiple ownerships, of a DAU established during the current allocation period may relinquish such DAU by signing a form, provided by the District, by the end of the working day on May 15 of the water year in which the DAU is to be relinquished.

7.3.3.4.3 Any certified irrigated tracts within a DAU established during the current allocation period that has been relinquished by the landowner, or a minimum of one landowner in the case of a DAU comprised of certified irrigated tracts under multiple ownerships, or rescinded by the District prior to the end of the current allocation period may be included in a new DAU, provided the provisions of Rule 7.2.3.2 are met.

7.3.3.4.4 If a DAU is rescinded by the District or relinquished by the landowner, or a minimum of one landowner in the case of a DAU comprised of certified irrigated tracts under

multiple ownerships during the current allocation period, the remaining available water in the DAU will be prorated to the separate certified irrigated tracts based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract, unless there is a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tracts.

7.3.3.4.4.1 In the case of a written agreement between the affected landowners regarding the apportionment of the remaining available water within the DAU between the certified irrigated tracts during the current allocation period, the written agreement must be provided to the District within thirty (30) working days following the rescission or relinquishment of the DAU. Failure to do so will result in the available water being prorated pursuant to Rule 7.2.3.4.4.

7.3.3.5 If there is an available water overdraft for a DAU at the end of an allocation period, the amount of the available water overdraft plus the available water overdraft penalty and/or any other penalties will be prorated between the certified irrigated tracts based on the amount of the available water overdraft plus the available water overdraft penalty and/or any other penalties and the number of certified irrigated acres in each certified irrigated tract unless there is a written agreement between the affected landowners regarding the apportionment of the available water overdraft plus the available water overdraft penalty and/or any other penalties between the certified irrigated tracts.

7.3.3.5.1 In the case of a written agreement between the affected landowners regarding the apportionment of the available water overdraft plus the available water overdraft penalty and/or any other penalties between the certified irrigated tracts, the written agreement must be provided to the District prior to March 1 of the water year immediately following the end of the allocation period. Failure to do so will result in the available water overdraft plus the available water overdraft penalty and/or any other penalties being prorated pursuant to Rule 7.3.3.5.

7.3.3.6 If there is unused available water in a DAU at the end of an allocation period, the lesser amount of the unused available water or twelve (12) acre-inches per certified irrigated acre multiplied by the number of certified irrigated acres within the DAU may be carried forward into the next allocation period. The amount of such carryforward that will be able to be used in the next allocation period will be prorated between the certified irrigated tracts based on the amount of the carryforward and the number of certified irrigated acres in each certified irrigated tract, unless there is a written agreement between the affected landowners regarding the apportionment of the carryforward between the certified irrigated tracts.

7.3.3.6.1 In the case of a written agreement between affected landowners regarding the apportionment of the carryforward between the certified irrigated tracts, the written agreement must be provided to the District prior to March 1 of the water year immediately following the end of the allocation period. Failure to do so will result in the carryforward being prorated pursuant to Rule 7.2.3.6.

7.3.4 Allocation Provisions

7.3.4.1 If the amount of available water for a certified irrigated tract, PAU or DAU is equal to or less than zero, ground water cannot be applied to such certified irrigated tract, PAU or DAU until such time as the amount of available water is greater than zero.

7.3.4.2 In the event of an available water overdraft for a PAU or a certified irrigated tract, the District shall reduce the following allocation period's total current allocation for that certified irrigated tract or combined total current allocation for the certified irrigated tracts within the PAU by the amount of the available water overdraft plus the amount of the available water overdraft penalty.

7.3.4.3 If there is unused available water in a PAU or certified irrigated tract at the end of an allocation period, the lesser amount of the unused available water or twelve (12) acre-inches per certified irrigated acre multiplied by the number of certified irrigated acres within the certified irrigated tract or PAU may be carried forward and added to the following allocation period's total current allocation for that certified irrigated tract or the combined total current allocation for the certified irrigated tracts within the PAU.

7.3.4.4 If a special circumstance replacement well is constructed pursuant to Rule 1.4.2.2, the remaining available water for the original certification will be prorated to the severed certified irrigated tract(s) and the remaining certified irrigated tract(s) based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract unless there is a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tracts.

7.3.4.4.1 In the case of a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tracts, the written agreement must be provided to the District at least thirty (30) working days prior to the beginning of the next water year. Failure to do so will result in the available water being prorated pursuant to Rule 7.3.4.4.

7.3.4.5 If an irrigation system, gravity irrigation system, or flow meter is installed during the allocation period on certified irrigated acres that did not have such system or on a regulated well that did not have a flow meter during the previous water years of the allocation period, those certified irrigated acres, if eligible, will be granted an allocation equal to the base allocation for each water year left in the allocation period.

7.3.5 Transition from Water Years 2010-2014 Allocation Period to Water Years 2015-2019 Allocation Period

7.3.5.1 For a certified irrigated tract, DAU or PAU comprised of certified irrigated acres subject to Rule 7.2.1:

7.3.5.1.1 If applicable, the carryforward from the Water Years 2012-2014 allocation period that will be added to the total current allocation for a certified irrigated tract, DAU, or PAU for the Water Years 2015-2019 allocation period will be the lesser amount of the unused available water for that certified irrigated tract, DAU, or PAU, or twelve (12) acre-inches per certified irrigated acre, which is equivalent to the base allocation for the Water Years 2012-2014 allocation period, multiplied by the number of certified irrigated acres within the certified irrigated tract, DAU or PAU.

7.3.5.1.2 Any available water overdraft, available water overdraft penalty, and/or other penalties assessed for the Water Years 2012-2014 allocation period will be subtracted from the total current allocation for a certified irrigated tract, DAU or PAU for the Water Years 2015-2019 allocation period.

7.3.5.1.3 The additions and/or subtractions described in Rule 7.3.5.1.1 and Rule 7.3.5.1.2, if any, along with the total current allocation, will equal the available water for a certified irrigated tract, DAU or PAU for the Water Years 2015-2019 allocation period.

7.3.6 Acres Enrolled in Temporary Irrigation Retirement Program(s)

7.3.6.1 Certified irrigated acres which are not being irrigated because they are enrolled in a program(s), such as the Conservation Reserve Program (CRP), Conservation Reserve Enhancement Program (CREP), Environmental Quality Incentive Program (EQIP), or others, which requires participants to temporarily set aside crop land for other uses or otherwise temporarily remove such land from crop production shall not receive an allocation while those certified irrigated acres are enrolled in such program.

7.3.6.1.1 The regulated well(s) which serve any certified irrigated acres that are or will be enrolled in such program(s) may be used to provide ground water for the purpose of establishing a vegetative cover, pursuant to program guidelines for use of water.

7.3.6.1.2 If, prior to enrollment in such program(s), there is any remaining available water for the certified irrigated tract(s) or portion of certified irrigated tract(s) to be enrolled, the remaining available water will be rescinded.

7.3.6.1.2.1 If, prior to enrollment in such program(s), the certified irrigated tract(s) or portion of certified irrigated tract(s) to be enrolled are part of a PAU or DAU, the PAU or DAU will be rescinded. Any remaining available water in the PAU or DAU will be prorated to the separate certified irrigated tract(s) based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract. The prorated portion of the remaining available water for the enrolled certified irrigated tract(s) or portion of certified irrigated tract(s) will be rescinded. The prorated portion of the remaining available water for the certified irrigated tract(s) not enrolled in the program(s) will remain prorated unless there is a written agreement between the affected landowners regarding the apportionment of the remaining available water between the certified irrigated tract(s) which will not be enrolled in the program(s).

7.3.6.1.2.1.1 In the case of a written agreement between the affected landowners regarding the apportionment of the remaining available water within the PAU or DAU between the certified irrigated tracts not enrolled in the program(s), the written agreement must be provided to the District at least thirty (30) working days prior to the beginning of the next water year. Failure to do so will result in the available water being prorated pursuant to Rule 7.3.6.1.2.1.

7.3.6.2 The landowner must notify the District within sixty (60) days of enrollment or removal of certified irrigated acres from such program(s). The District will not grant an allocation for any certified irrigated acres removed from such a program(s) unless the District receives written notification, on forms provided by the District, of the removal of the acres from the program(s). Prior to the commencement of irrigation on such certified irrigated acres, the acres must be granted an allocation.

7.3.6.3 If certified irrigated acres are removed from such program(s), or if the program contract(s) is terminated or expires at any time during an allocation period, then, if eligible, the amount of the allocation that will be granted to such certified irrigated acres will be equal to the base allocation for each water year left in the allocation period.

7.4 Allocation of Ground Water for Livestock Operations

7.4.1 The ground water allocation for each certified livestock operation is twenty (20) gallons per day per animal unit per water year.

7.5 Allocation of Ground Water for Other Uses

7.5.1 To receive an allocation for the Water Years 2015-2019 allocation period for certified uses other than irrigation and livestock operations, the ground water user must submit an application to the District on or before February 1, 2015, on forms provided by the District. The General Manager will approve or deny such application prior to March 1, 2015.

7.5.1.1 In considering whether to approve such applications, the General Manager shall consider the factors including, but not limited to, the following: (1) the historical ground water use by the applicant; (2) relevant information about the ground water use provided by the applicant; and (3) any other information which the General Manager deems relevant, reliable and unbiased.

Chapter 7 – Allocation of Ground Water for the Pumpkin Creek Basin Ground Water Management Subarea (formerly known as (1) Section D: Rules and Regulations for the Pumpkin Creek Basin Groundwater Management Sub-Area and Rules and (2) Regulations for the Pumpkin Creek Basin Groundwater Management Sub-Area) was adopted by Order No. NPNRD-4 on February 15, 2001, effective on March 21, 2001; amended by Order No. NPNRD-5, effective December 19, 2002; amended by Order No. NPNRD-6, effective March 12, 2004; amended by Order No. NPNRD-9, effective March 9, 2006; amended by Order No. NPNRD-16, effective January 12, 2009; amended by Order No. NPNRD-20, effective April 9, 2012; amended by Order No. NPNRD-22, effective May 11, 2013; amended by Order No. NPNRD-23, effective December 14, 2014.

**CHAPTER 8 – LISCO-OSHKOSH-LEWELLEN GROUND WATER QUALITY
MANAGEMENT SUBAREA**

8.1 Area Designation and Boundaries

8.1.1 The area subject to Chapter 8 of these rules and regulations is the Lisco-Oshkosh-Lewellen Ground Water Management Subarea as defined in Order Number NPNRD-3.

8.2 Restrictions on Nitrogen Fertilizer Application

8.2.1 Application of commercial nitrogen fertilizer is prohibited after September 1 of each year and before March 1 of the following year on all certified irrigated tracts served by regulated irrigation wells.

8.2.1.1 Certified irrigated tracts served by regulated irrigation wells and planted to small grain winter crops (e.g., wheat) are exempt from Rule 8.2.1.

8.2.2 Commercial nitrogen fertilizer may be applied after January 1 at a rate of ten (10) pounds of nitrogen per acre or less to certified irrigated tracts served by regulated irrigation wells that are planted to alfalfa.

Chapter 8 - Level II Quality Controls for Lisco-Oshkosh-Lewellen Ground Water Management Subarea was adopted by Order No. NPNRD-3 on August 19, 1999, effective on October 1, 1999; amended by Order No. NPNRD-8, effective November 18, 2004; amended by Order No. NPNRD-23, effective December 14, 2014.