



NORTH PLATTE

Natural Resources District

RULES & REGULATIONS

For the Enforcement of the
Nebraska Ground Water Management and Protection Act
and the
Nebraska Chemigation Act
Effective _____, 2019



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Authority

These Rules & Regulations are established and adopted pursuant to the authorities granted in the Nebraska Ground Water Management and Protection Act (Neb. Rev. Stat. §46-701 to §46-756) and the Nebraska Chemigation Act (Neb. Rev. Stat. §46-1101 to §46-1148).

Purpose

The purpose of these Rules & Regulations is to establish procedures for the implementation of management practices to conserve and protect ground water supplies and to prevent the contamination or inefficient or improper use of ground water. Management, protection and conservation of ground water and the reasonable and beneficial use thereof are essential to the economic prosperity and future well-being of the citizens of the District and Nebraska.

Goal

The goal of these Rules & Regulations is to protect and extend the ground water reservoir life to the greatest extent practicable consistent with reasonable and beneficial use of the ground water and best management practices.

Applicability

These Rules & Regulations apply to all lands located within the North Platte Natural Resources District boundaries.

Mission Statement

The North Platte NRD delivers programs and services targeted at natural resources conservation and the quality and quantity of ground water to enhance the livelihood of our current and future citizens.

CHAPTER 1 – DEFINITIONS

1. **Acre-foot** means the amounts of water necessary to cover one acre of land one foot deep and is equal to 325,851 gallons of water.
2. **Acre-inch** means the amount of water necessary to cover one acre of land one inch deep and is equal to 27,154 gallons of water.
3. **Alleged Violator** means any person against whom a complaint has been filed for failure to abide by these Rules & Regulations.
4. **Allocation** means the allotment of a specified quantity of ground water during an allocation period for a specific use.
5. **Allocation Period** means the period of time for which an allocation is granted and may be used.
6. **Animal Unit** means a unit of measurement for any livestock operation calculated by adding the following numbers: (1) the number of slaughter and feeder cattle multiplied by 1.0; (2) the number of mature dairy cattle or cow/calf pairs multiplied by 1.4; (3) the number of swine weighing fifty-five (55) pounds or more multiplied by 0.4; (4) the number of weaned pigs weighing less than fifty-five (55) pounds multiplied by 0.04; (5) the number of sheep multiplied by 0.1; (6) the number of horses multiplied by 2.0; (7) the number of chickens multiplied by 0.01; (8) the number of turkeys multiplied by 0.02; and (9) the number of ducks multiplied by 0.2.
7. **Applicator** means any person engaged in the application of chemicals by means of chemigation, which shall include any person operating equipment used for chemigation, whether for himself or on behalf of the permitholder for the land on which the chemigation will take place.
8. **Aquifer** means a geological formation, group of formation, or part of a formation of water-bearing material having pores or open spaces capable of yielding a quantity of water significant enough to be extracted.
9. **Available Water** means beginning available water, less any used water throughout the allocation period.
10. **Available Water Overdraft** means the amount of ground water, expressed in acre-inches per certification, used in excess of the available water during the current allocation period.
11. **Available Water Overdraft Penalty** means a penalty assessed when an available water overdraft occurs. An available water overdraft penalty is equal to and in addition to the amount of the available water overdraft and is expressed in acre-inches per certification.
12. **Backflow Prevention Device** means a safety mechanism to prevent contaminants from entering the ground water supply and shall include backflow brakes with a register and check valves.

13. **Base Allocation** means the amount of ground water granted by the Board to a certified irrigated acre within a certified irrigated tract per water year.

14. **Baseline Consumptive Use** means the historic average annual consumptive use between August 1, 2001 and July 31, 2006, which is determined by ground water pumping volumes, and where applicable, wastewater discharge volumes or if unavailable through those dates, then a 5-year average beginning one year from the date of flowmeter installation.

15. **Beginning Available Water** means the amount of ground water, expressed in acre-inches per certified irrigated tract, that may be used to irrigate a certified irrigated tract during an allocation period. It is calculated by adding the total current allocation to the amount of carryforward from the previous allocation period, if any, and then subtracting, if applicable, any available water overdraft, available water overdraft penalties, or other penalties assessed during the current and/or previous allocation period.

16. **Beneficial Use** means that use by which water may be put to use to the benefit of humans or other species.

17. **Best Management Practices** 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. Best management practices relating to contamination of ground water may include, but not be limited to, irrigation scheduling, proper rate and timing of fertilizer application, and other fertilizer and pesticide management programs.

18. **Board or Board of Directors** means the Board of Directors of the North Platte Natural Resources District.

19. **Carryforward** means any unused portion of an allocation that can be carried forward to the subsequent allocation period.

20. **Carryforward Cap** means the maximum amount of carryforward that may be accumulated and used in a subsequent allocation period.

21. **Cease and Desist Order** means an order issued by the District directing a landowner, ground water user and the authorized operator, if applicable, to discontinue their activities that are purportedly illegal or in violation of the Ground Water Management and Protection Act or these Rules & Regulations, and to not resume those activities until a final decision is made as to whether those activities are illegal or in violations of the Act or these Rules & Regulations.

22. **Certification** means the District's approval of any ground water use from any water well for any purpose in accordance with these Rules & Regulations and federal or state law.

- a. **Aquaculture Certification** is the classification of the use of ground water used for a controlled propagation and cultivation of aquatic plants or animals for commercial purposes.

- b. **Commercial Certification** is the classification of the use of ground water used in manufacturing, commercial or power generation, including, but not limited to, turf of a golf course or cemeteries.
- c. **Feedlot Certification** is the classification of the use of ground water used in a large concentrated animal feeding or large animal feeding operation which is defined by the DEQ, the Livestock Waste Management Act and Nebraska Administrative Code Title 130 Chapter 1, Sections 002 and 024.
- d. **Irrigation Certification** is the classification of the use of ground water used to irrigate certified irrigated acres, or lawns and gardens that are greater than 2 acres.
- e. **Municipal Certification** is the classification of the use of ground water used by cities, villages or municipal corporations which supplies or intends to supply water to inhabitants of cities, villages or rural areas for domestic or municipal purposes.
- f. **Non-Municipal Certification (Public Water Supplier)** is the classification of the use of ground water used by rural water districts, natural resources districts, irrigation districts, reclamation districts or sanitary and improvement districts to provide the public with water for domestic or municipal purposes.
- g. **Wildlife Certification** is the classification of the use of ground water used to benefit wildlife and/or the sustainability of their habitat.

23. **Certified Irrigated Acres** means the number of acres or portion of an acre that the District has approved for irrigation from ground water in accordance with state laws and with these Rules & Regulations.

24. **Certified Irrigated Tract** means any tract of land under common ownership consisting of two or more acres that is irrigated with ground water from a regulated well located within the District boundaries and has been certified by the District to allow the use of ground water irrigation.

25. **Chemical** means any fertilizer, fungicide, herbicide or pesticide mixed with the water supply for application through chemigation.

26. **Chemigation** means any process whereby chemicals are applied to land or crops in or with water through an on-farm irrigation distribution system.

27. **Closed Irrigation System** means a pipe system running directly from a regulated well to an irrigation distribution system that contains no air release or no air gap within the pipe system.

28. **Commence Construction of a Water Well** means to begin the boring, drilling, jetting, digging or excavating of the actual water well from which groundwater will be withdrawn.

29. **Commingled Water** means both ground water and surface water that are available on the same certified irrigated acres.

30. **Complainant** means any person who files a complaint alleging a violation of these Rules & Regulations.

31. **Compliance Officer** means an employee or agent of the District who is authorized by these Rules & Regulations to perform the functions assigned thereto.

32. **Consumptive Use** means the amount of water that is consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use is lawfully made (e.g. that portion of the ground water that is withdrawn and is evaporated, transpired, incorporated into products, crops or vegetation, or consumed by humans or livestock).

33. **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.

34. **Controls** mean any requirement, obligation, duty or restriction imposed on any ground water user who owns, uses or operates land within the District.

35. **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.

36. **Department, DNR or NDNR** means the Nebraska Department of Natural Resources.

37. **DEQ or NDEQ** means the Nebraska Department of Environmental Quality.

38. **Designated Allocation Unit (DAU)** means an arrangement in which the available water for certified irrigated tracts may be combined.

39. **District, NPNRD or NRD** means the North Platte Natural Resources District.

40. **Emergency Use of Water** means any set of circumstances that requires the use of water from any source that might otherwise be regulated or prohibited and the agency, district or organization responsible for regulating water use from such source reasonably and in good faith believes that such use is necessary to protect health, safety and welfare, including, if applicable, compliance with federal or state water quality standards.

41. **Flow Meter** means a device used to measure an amount of water.

42. **Flow Meter Telemetry Unit** means a fixed device that reads a flow meter by measuring and collecting data, either in digital or still picture format, and transmits the data wirelessly to remote receiving equipment. A flow meter telemetry unit includes the telemeter, any solar or battery power equipment, any camera to record the flow meter, and any structural

equipment or material necessary to mount, install, or hold components of the flow meter telemetry unit.

43. **Good Cause Shown** means reasonable justification for granting a variance for a consumptive use of ground water that would otherwise be prohibited by these Rules & Regulations and which the District reasonably and in good faith believes will provide an economic, environmental, social or public health and safety benefit to the District that is equal to or greater than the benefit resulting from enforcement of the Rule or Regulation from which a variance is sought.

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

45. **Ground Water Management Area or Management Area** means any geographic and stratigraphic area designated by the Board pursuant to Neb. Rev. Stat. §46-712 to protect ground water quantity or quality.

46. **Ground Water User** means any person who pumps, extracts, withdraws or confines ground water from a regulated well for any use, regardless of rate of withdrawal. Whenever the landowner and operator are different persons, the term “ground water user” shall mean both the landowner and operator.

47. **Historic Consumptive Use** means the amount of water that has been previously consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use is lawfully made (e.g. that portion of the ground water that has been previously withdrawn and was evaporated, transpired, incorporated into products, crops or vegetation, or consumed by humans or livestock).

48. **Improper Irrigation Runoff** means the occurrence of ground water irrigation runoff (1) which causes or contributes to the accumulation of water upon or beneath the surface of the lands of any other person to their detriment, damage or inconvenience; (2) which causes or contributes to the deterioration of water quality by depositing sediment and/or associated chemicals in surface water within the area; or (3) which contributes to waste.

49. **Injection Location** means each site where chemicals will be applied through an irrigation distribution system.

50. **Inspector** means an employee or agent of the District designated by the Compliance Officer to perform the functions assigned thereto.

51. **Irrigation Runoff** 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.

52. **Irrigation Distribution System** means any device or combination of devices having a hose, pipe or other conduit, which connects directly to any source of ground or surface water through which water or a mixture of water and chemicals is drawn and applied for agricultural or horticultural purposes. This shall not include any handheld hose sprayer or other

similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

53. **Irrigation System** means the necessary appurtenances connected to a regulated well, including the pump, used to convey irrigation water to a certified irrigated tract. This includes, but is not limited to, any combination of set-move, solid-set, traveler, center pivot, subsurface drip system or linear move sprinkler system and gravity, furrow, border, or flood irrigation utilizing water from a lateral or a pipe.

54. **Land Use Zone/URF Zone** means a geographic area within the extent of the WWUMM that was established through a process of evaluating each of the multiple areas within the model for similar canal operations, hydrology, land use and other conditions.

55. **Landowner** means the record owner of real estate.

56. **Livestock** means all animals raised or harvested for commercial purposes, excluding animals subject to aquaculture or range livestock.

57. **Mitigation Action** means a specific action, project, activity or process taken to reduce or eliminate potential impact or adverse effects on third-parties.

58. **Negative Flow Meter** means a secondary meter installed which is used to measure the amount of water being used for a secondary purpose (other than irrigation through an irrigation system) or to measure the amount of surface water used in conjunction with ground water.

59. **Offset** means the acquisition of water for purposes of mitigating adverse impacts to existing ground water users, existing surface water appropriators or the North Platte River and its tributaries due to (1) a new or expanded consumptive use of ground water; (2) change in the point of ground water withdrawal from a regulated well; (3) change in the location of a certified ground water use; (4) change in the purpose of a certified ground water use; or (5) addition of a ground water use to an existing certified ground water use.

60. **Open Discharge System** means a system in which the water is pumped or diverted directly into a ditch or canal in such a manner that the force of gravity at the point of discharge into the ditch or canal cannot cause water to flow back to the point from which the water was pumped or diverted.

61. **Operator** means that person who has the most direct control over the day-to-day operation of the land or system.

62. **Permit** means the written approval document that must be obtained from the Department and/or the District pursuant to the authority granted in the Nebraska Ground Water Management Act, the Chemigation Act or these Rules & Regulations.

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

64. **Pre-existing Allocation Unit (PAU)** means a designation used by the District in situations where the amount of ground water applied to more than one certified irrigated tract is not able to be determined due to the configuration of the regulated well and/or the location of the flow meter measuring the withdrawal of ground water from such regulated well.

65. **Public Water Supplier** means a city, village, municipal corporation, rural water district, natural resources district, irrigation district, reclamation district or sanitary and improvement district which supplies or intends to supply water to inhabitants of cities, villages or rural areas for domestic or municipal purposes (i.e. public water supply).

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

67. **Reconfiguration** means the rearrangement of certified irrigated acres to adjacent acres without changing the location of the well serving the original certified irrigated acres.

68. **Severed Irrigated Acres** means certified irrigated acres within a certified irrigated tract that have been severed from the regulated well serving those acres.

69. **Temporary Ground Water Use** means the temporary use of ground water from a regulated irrigation well with an associated certified use and allocation for energy exploration and development or construction purposes for a period of less than or equal to six (6) months.

70. **Test Hole** means a hole designed solely for the purpose of obtaining information on hydrologic or geologic conditions.

71. **Total Allocation** means the current allocation and any allowable or authorized carryforward from prior allocation periods.

72. **Totalizer** means a device within a flow meter used to read instantaneous ground water flow and volume delivery from a regulated well.

73. **Transfer** means (1) a change in the location of a certified ground water use; (2) a change in the point of ground water withdrawal from a regulated well; (3) a change in the purpose of a certified ground water use; (4) to add a new ground water use to an existing certified ground water use; or (5) any combination thereof which requires an approved transfer permit pursuant to these Rules & Regulations.

74. **URF Analysis** means an analysis involving a fifty (50) year unit response function (URF) created by the Ground Water Model of the WWUMM for use by the Surface Water Operations Model of the WWUMM to provide timing and location of recharge and depletion within land use zones.

75. **Variance** means the approval to act in a manner contrary to the District's existing Rules & Regulations which are otherwise applicable.

76. **Water Well** means an 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 hydrogeologic information, or extracting water from or injecting fluid as defined in Neb. Rev. Stat. §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 excavation, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation. Water well does not include (1) 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 Conservation Commission or (2) any structure requiring a permit by the Department used to exercise a surface water appropriation.

- a. **Abandoned Water Well** means any water well (1) that the use of which has been accomplished or permanently discontinued; (2) which has been decommissioned; or (3) for which the notice of abandonment required by Neb. Rev. Stat. §46-602(2) has been filed with the Department by the licensed water well contractor or pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well.
- b. **Active Status Water Well** means a water well that is in use and has not been decommissioned or is not an illegal water well.
- c. **Aquaculture Water Well** means a water well that is used in the practice of controlled propagation and cultivation of aquatic plants or animals for commercial purposes.
- d. **Backup Well** means an alternative well of a pair or series of wells used only when the primary well is offline. A backup well shall not be operated simultaneously with the primary well. Any water pumped from a commercial backup well must be measured with a flow meter and shall be counted against the allocation, if any, from the well which it backs up.
- e. **Commercial Water Well** means a regulated well that supplies ground water for certified manufacturing, commercial or power generation uses. Certified commercial uses include but are not limited to, aquaculture operations and turf of a golf course.
- f. **Decommissioned Well** means a ground water well that has been filled, sealed and plugged in accordance with the Department of Health and Human Services Title 178 NAC 10 and 12.
- g. **Dewatering Well** means a water well constructed and used solely for the purpose of lowering the ground water table elevation either temporarily or permanently. All water pumped by permanent dewatering wells must be measured with a flow meter.
- h. **Domestic Well** means a water well designed to provide ground water for human needs as it relates to health, fire control and sanitation of humans. Domestic wells may be used for domestic livestock or for lawns and gardens for family

use or profit where the area to be irrigated does not exceed two acres. This does not include any well constructed and used for a public water system.

- i. **High Capacity Well** means any water well capable of pumping 51 gallons or more per minute.
- j. **Illegal Well** means (1) any well not registered pursuant to the provisions of Neb. Rev. Stat. §46-602 to §46-604; (2) any well in violation of spacing requirements specified by Neb. Rev. Stat. §46-609 to §46-651; (3) any well or pit from which water is transported to an adjoining state in violation of Neb. Rev. Stat. §46-613.01; (4) 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 under Neb. Rev. Stat. §46-637; (5) any well constructed without a required permit under Neb. Rev. Stat. §46-735; (6) any illegal water well as defined by Neb. Rev. Stat. §46-1207.01; or (7) any well constructed or operated in violation of these or other rules and regulations of the District or other applicable laws, rules or regulations of the State of Nebraska and its agencies.
- k. **Injection Well** means a water well into which fluids are injected (i.e. waste water from oil development).
- l. **Irrigation Water Well** means a regulated well that supplies ground water to certified irrigated acres for the production of forage or any agricultural crop, or the irrigation of lawns and gardens for family use or profit where the area to be irrigated is greater than two (2) acres.
- m. **Livestock Well** means a low capacity well which is used for the watering of range livestock, feedlots and other uses, other than for irrigation purposes, directly related to the operation of a pasture, range or feedlot. This shall not include aquaculture wells or wells used in the propagation and cultivation of aquatic plants or animals for commercial purposes. Such wells are exempt from allocations.
- n. **Low Capacity Well** means any water well capable of pumping 50 gallons or less per minute.
- o. **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.
- p. **Primary Well** means a well in a pair or series of wells which is used as the principal water sources for that certified use.
- q. **Public Water Supply Well** means a well that is used by a city, village, municipal corporation, rural water district, natural resources district, irrigation district, reclamation district or sanity and improvement district to provide the public with water for domestic or municipal purposes. All water pumped by such wells must be measured.

- r. **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 regardless of pumping capacity. Replacement wells and any excavation of land, including a sandpit, from which ground water is extracted for irrigation purposes or in which consumptive use occurs, are regulated wells. Domestic, range livestock, dewatering wells with an intended use of ninety (90) days or less, test holes, monitoring and observation wells, and wells constructed pursuant to a ground water remediation plan under the Environmental Protection Act are not regulated wells.
- s. **Replacement Well** means a water well which is constructed to provided water for the same purpose as the original water well and is operating in accordance with any applicable permit from the Department or the District and in accordance with the applicable Rules & 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 (1) replaces a decommissioned water well within one hundred eighty (180) days after the decommissioning of the original water well; (2) 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; (3) 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, or any other nonconsumptive or de minimis use and approved by the District; (4) the pumping capacity of a replacement well cannot be greater than the pumping capacity of the original well as shown in the original well's registration records on file with the Department; and (5) the original well can only be replaced by a single well, not by multiple wells.
- t. **Sandpit Well** means an excavation that is dug, jetted, or otherwise constructed, in which 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.
- u. **Special Circumstance Replacement Well** means a regulated irrigation well constructed for the purpose of serving certified irrigated acres that have been severed from the regulated irrigation well originally certified to those acres. Withdrawal and use of ground water from a special circumstance replacement well shall not result in an increase in consumptive use, and the capacity cannot be greater than the capacity, as shown in the Department well registration records, of the regulated irrigation well originally certified to the severed certified irrigated acres.

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

78. **Western Water Use Management Model (WWUMM)** means the modeling methodology used by the District consisting of three models (Regionalized Soil Water Balance Model, Surface Water Operations Model and a Ground Water Model) which simulate the regional aquifer and stream systems and are used to evaluate District water management actions.

79. **Working Day** means Monday through Friday, but shall not include Saturday, Sunday or a federal or state holiday.

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CHAPTER 2 – DISTRICT BOUNDARIES AND DESIGNATIONS

I. District Boundaries

1. The District boundaries encompass all of Scotts Bluff County, Banner County, Morrill County and Garden County, and a portion of Sioux County, Nebraska. Map 1 attached hereto and incorporated herein shows the exact boundaries of the District.

II. Designations

1. The entire District is designated as a Ground Water Management Area for the purposes of ground water quality and quantity management pursuant to Order No. NPNRD-1. The stratigraphic boundary of the Ground Water Management 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 rests on Cretaceous materials as defined by the University of Nebraska – Lincoln Conservation and Survey Division.

2. The entire District has been determined to be fully appropriated (FA) and/or overappropriated (OA) and is designated as an Integrated Management Subarea pursuant to Order No. NPNRD-17. Maps 2 and 3 attached hereto and incorporated herein show the approximate boundaries of the FA and OA areas within the District boundaries. The stratigraphic boundary of the Integrated Management Subarea includes all sediments from ground level downward through all aquifer units.

3. The Pumpkin Creek Basin has been designated as a Ground Water Management Subarea for the purposes of ground water quality, quantity and hydrologically connected surface and ground water management pursuant to Order No. NPNRD-4. The stratigraphic boundaries of the Pumpkin Creek Basin Ground Water Management Subarea include the Tertiary Brule Formation and the Quaternary deposits as defined by the Conservation and Survey Division of the University of Nebraska-Lincoln. Map 4 attached hereto and incorporated herein shows the boundaries of the Pumpkin Creek Basin Ground Water Management Subarea.

4. The Lisco-Oshkosh-Lewellen (LOL) Ground Water Management Subarea has been designated for the purpose of ground water quality management pursuant to Order NO. NPNRD-3. The stratigraphic boundaries of the LOL Ground Water Management Subarea include the Quaternary deposits, the Broadwater Formation, the Ogallala Group, the Arikaree Group and the White River Group, as defined by the Conservation and Survey Division of the University of Nebraska-Lincoln. Map 5 attached hereto and incorporated herein shows the boundaries of the LOL Ground Water Management Subarea.

CHAPTER 3 – VARIANCES

Unless otherwise provided by law or these Rules & Regulations, the Board may grant a variance from these Rules & Regulations upon good cause shown, provided that any such variance may be granted only if third parties are not harmed or prejudiced.

I. Application

1. Any variance application must be made on forms provided by the District and must include any additional information requested by the District. The applicant must pay a non-refundable filing fee of three hundred dollars (\$300) to the District, which must accompany the variance application when filed with the District. If requested by District staff or the Board, at their sole discretion, the applicant shall provide all additional information that may be deemed necessary to examine the variance application.

2. Each variance application shall be reviewed by District staff and a staff recommendation of the variance application will be provided to the appropriate committee of Board members, according to the subject matter and nature of each variance application. At a regularly scheduled public meeting, the respective committee will then review each variance application and make a recommendation to the full Board as to a proposed action on the application.

3. Any variance application can be withdrawn at any time prior to the public hearing on the variance application. Any applicant wishing to withdraw a variance application must provide written notice to the District, which written notice must be received by the District office no later than one working day prior to the public hearing. If a variance application is withdrawn at any time prior to the public hearing, the applicant's filing fee will not be returned.

II. Public Hearing

1. Prior to acting on the committee's recommendation on a variance application, the Board shall hold a public hearing. The Board shall cause to be published a notice of public hearing, according to the regular procedures then in place for publishing notice of monthly Board meetings and shall include in the notice the name of the applicant and the variance number assigned by the District for each variance application which is the subject of the public hearing. Any person wishing to express concerns regarding a variance application may address the Board directly at the public hearing. Such public hearing shall be held in accordance with the procedures governing conduct of hearings before the District.

2. Following the public hearing, the Board shall take final action on the variance application no later than the next regularly scheduled Board meeting without further public comment.

3. The Board, at its sole discretion, may approve, approve with conditions, or deny any variance application. The Board may, in the case of a denial of any variance application, provide information on the deficiencies found with the application.

4. Nothing in these Rules & Regulations shall preclude an applicant whose variance application was denied from reapplying to the District. Any such reapplication must be accompanied by a non-refundable filing fee of \$300. If the applicant files a new variance application that has previously been denied by the Board, the applicant shall provide sufficient information to demonstrate that any deficiencies identified with the previous variance application have been addressed.

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CHAPTER 4 – CERTIFICATIONS OF GROUND WATER

The withdrawal and/or use of ground water for any purpose from any water well, with the exception of domestic wells, livestock wells, dewatering wells with an intended use of ninety (90) days or less, test holes, monitoring wells, or wells constructed pursuant to a ground water remediation plan under the Environmental Protection Act, is not allowed unless that withdrawal and/or use has been certified by the District.

Applications for certifications will be considered except those for additional irrigated acres.

I. Changes and Rescissions

1. The landowner or the person with authority for the certification must notify the District within sixty (60) days following a change of ownership for the certified ground water use or of the acquisition or relinquishment of a surface water right serving the certified ground water use.

2. Any change to a certification that does not result in an increase of irrigated acres or consumptive use, due to circumstances such as, but not limited to, a change of property ownership or a change in source of water for the certified use (e.g. ground water only to commingled or inclusion/exclusion of well(s)), will be approved by the General Manager provided all of the provisions of these Rules & Regulations are met. Certification for any increase of irrigated acres or increase in consumptive use will not be approved by the General Manager with the exception of feedlot certifications, aquaculture certifications and wildlife certifications. Changes to municipal and commercial certifications will be approved by the General Manager provided the provisions of Neb. Rev. Stat. §46-740 and these Rules & Regulations are met.

3. Any change to a certification, except as stated in the foregoing paragraph, will require the landowner or the person with authority for the certification to sign a rescission form provided by the District for the original certification, and, if applicable, a recertification form provided by the District for the new certification.

4. Upon the enrollment of certified irrigated acres in a permanent retirement program, the certification for the certified irrigated tract containing such acres will be rescinded and the remaining acres within the tract that have not been enrolled in the permanent retirement program, if any, will be recertified.

5. The Board may permanently rescind any previously approved certification if it finds that (1) the application for certification contained intentionally false or misleading information; (2) that the landowner or person with authority for the certification failed to meet any conditions stipulated in the certification; or (3) the landowner or person with authority for the certification has violated any of these Rules & Regulations. The District may also rescind a certification based on reliable information from public records or any other source deemed reliable.

6. If a certification is rescinded by the Board for any of these reasons, the District shall notify the landowner or person with authority for the certification of such rescission by certified mail. Any landowner or person with authority for the certification aggrieved by a determination of the Board regarding rescission of a certification of ground water use may, in writing addressed to

the General Manager, request a hearing before the Board for the purpose of reconsidering that decision. Such request for hearing shall be received by the District within thirty (30) working days from receipt of notice of the Board's action.

II. Severed Irrigated Acres

1. When certified irrigated acres within a certified irrigated tract have been severed from the regulated well serving those acres, the certification for the irrigated tract will be rescinded and the new tract in which the well is located will be recertified. The severed irrigated acres will not be recertified until an available ground water source for irrigation of those acres is identified.

2. The landowner of the severed irrigated acres has six (6) months from the date that the certification for the irrigated tract which contained the severed irrigated acres was rescinded to obtain a ground water irrigation source and recertify the severed irrigated acres. The landowner of the severed irrigated acres may:

- a. Apply to the District for a well construction permit to drill a special circumstance replacement well;
- b. Enter into an agreement with the owner of the regulated well, as described hereinbelow;
- c. Apply to the District for a change in location for the severed irrigated acres; or
- d. Choose to permanently discontinue ground water irrigation on the severed irrigated acres.

3. Failure to comply with these provisions will result in revocation of the ability to recertify the severed irrigated acres.

4. If the landowner of the severed irrigated acres desire to continue using the severed regulated well and have the severed well recertified to those acres, the landowner of the severed irrigated acres shall provide the District with a signed agreement between the well owner and the landowner of the severed irrigated acres to allow the severed regulated well to be used for irrigation purposes on the severed irrigated acres. If there is not an existing agreement between the well owner and the landowner of the severed irrigated acres, the District will provide a basic agreement form, if requested. If ownership changes on either the severed regulated well or severed irrigated acres, a new agreement will be required with any new owner unless the agreement between past owners was binding and filed with the respective county's register of deeds office. In the event a new agreement is required, a new agreement must be signed and provided to the District prior to any use or withdrawal of ground water on the severed irrigated acres. If a new agreement is not provided to the District, the landowner of the severed irrigated acres may:

- a. Apply to the District for a well construction permit to drill a special circumstance replacement well;
- b. Enter into an agreement with the owner of the regulated well, as described hereinbelow;

- c. Apply to the District for a change in location for the severed irrigated acres; or
- d. Choose to permanently discontinue ground water irrigation on the severed irrigated acres.

5. If a signed agreement is provided to the District, and all other provisions of these Rules & Regulations are met, the severed irrigated acres will be recertified with the severed regulated well serving as the ground water source for irrigation of those acres.

6. A separate flow meter will be required before withdrawal of ground water for the severed irrigated acres.

7. If the landowner of the severed irrigated acres chooses to permanently discontinue ground water irrigation on the severed irrigated acres, the acres will be decertified by the District.

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CHAPTER 5 – ALLOCATIONS

Certified irrigated acres will receive an allocation once a flow meter has been installed in accordance with these Rules & Regulations on the regulated well or irrigation system serving such acres and those acres are physically capable of being supplied ground water through an irrigation system, unless the acres are in retirement.

I. Allocation of Ground Water for Certified Irrigated Acres in the Overappropriated Area EXCEPT in the Pumpkin Creek Basin

1. The ground water allocation for each certified irrigated acre is seventy (70) acre-inches per certified irrigated acre per allocation period. The allocation period shall consist of five (5) consecutive water years beginning in Water Year 2020 and ending in Water Year 2024. The base allocation for each certified irrigated acre is fourteen (14) acre-inches per certified irrigated acre per water year. If there is any unused allocation at the end of the allocation period, the carryforward cap shall be no more than 24 acre-inches.

II. Allocation of Ground Water for Certified Irrigated Acres ONLY in the Pumpkin Creek Basin

1. 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 2020 and ending in Water Year 2024. The base allocation for each certified irrigated acre is twelve (12) acre-inches per certified irrigated acre per water year. If there is any unused allocation at the end of the allocation period, the carryforward cap shall be no more than two times the base allocation for each certified irrigated acre per water year, which equals 24 acre-inches.

III. Available Water

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.

2. If a flow meter is installed during the allocation period on certified irrigated acres 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.

3. If the General Manager has approved a transfer permit, pursuant to these Rules & Regulations, for the transfer of the location of the point of ground water withdrawal from a regulated well and/or certified irrigated acres that are subject to an allocation, the available water for the transferred certified irrigated acres will be equal to the amount of available water the certified irrigated acres had prior to the transfer.

4. A flow meter must be permanently installed prior to the end of the last water year in an allocation period in order to be eligible for any carryforward.

IV. Available Water Overdraft

1. In the event of an available water overdraft for a certified irrigated tract, PAU or DAU at the end of an allocation period, the District shall reduce the subsequent allocation period's total allocation for that certified irrigated tract or the combined total allocation for the PAU or DAU by the amount of the available water overdraft plus the amount of available water overdraft penalty and/or any other penalties. A PAU or DAU which has been rescinded and has an available water overdraft at the end of an allocation period will have the amount of the available water overdraft plus the amount of available water overdraft penalty and/or any other penalties prorated between the certified irrigated tracts based on 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 penalties between the certified irrigated tracts.

2. In the case of a written agreement between the affected landowners of a rescinded PAU or DAU regarding the apportionment of the 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 penalties being prorated based on the amount of the penalties and the number of certified irrigated acres in each certified irrigated tract.

3. The additions and/or subtractions described hereinabove, if any, along with the total allocation for the new allocation period, will equal the available water for a certified irrigated tract, PAU or DAU for the 2020-2024 allocation period.

V. Special Circumstance Replacement Well

1. If a special circumstance replacement well is constructed pursuant to these Rules & Regulations, the remaining available water for the original certification will be prorated to the severed certified irrigated tract and the remaining certified irrigated tract 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.

2. 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 within thirty (30) working days following the completion of construction of the special circumstance replacement well. Failure to do so will result in the available water being prorated based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract.

VI. Pre-existing Allocation Units (PAUs)

1. The total current allocation for each certified irrigated tract comprised of certified irrigated acres subject to this Chapter within a PAU will be combined.

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 any portion of a certified irrigated tract; or (2) a change in the configuration

of a regulated well and/or a change in location of the flow meter measuring the withdrawal of ground water from a regulated well serving one or more certified irrigated tracts.

3. A PAU will remain intact unless (1) there is a change in ownership of any portion of the certified irrigated tracts tract within a PAU; (2) any portion of the certified irrigated tract 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 in the configuration of the regulated well serving any portion of the certified irrigated tracts within the PAU and/or in the location of the flow meter measuring the withdrawal of ground water from such regulated well. If such change occurs, the PAU will be rescinded, and, if applicable, a new PAU containing the remaining certified irrigated tract unaffected by such change will be designated.

4. The landowner must notify the District within sixty (60) days of a change in ownership of any portion of a certified irrigated tract within a PAU and/or a change in the configuration of the regulated well serving one or more of the certified irrigated tracts within a PAU and/or the location of the flow meter measuring the withdrawal of ground water from such regulated well.

5. If a PAU is rescinded by the District, the certification for each certified irrigated tract within the original PAU will be certified according to the modified status of each tract. If needed, the remaining available water in the PAU will be prorated to the separate certified irrigated tracts comprised of certified irrigated acres subject to the allocation 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.

6. 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 within thirty (30) working days following the PAU rescission. Failure to do so will result in the available water being prorated based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract.

7. If rescinded, the amount of any carryforward for a PAU 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.

8. 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 between the certified irrigated tracts based on the amount of the carryforward and the number of certified irrigated acres in each certified irrigated tract.

VII. Designated Allocation Units (DAUs)

1. All DAUs established prior to January 1, 2020, will remain intact unless there is a change in ownership of any portion of the certified irrigated tracts within a DAU or unless any portion of the certified irrigated tracts 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.

2. The landowner must notify the District within sixty (60) days of a change in ownership of any portion of the certified irrigated tracts within the DAU, a change in the origin of the water source used to irrigate any portion of the certified irrigated tracts within the DAU, or the enrollment of any portion of the certified irrigated tracts within the DAU in a temporary irrigation retirement program requiring cessation of irrigation for the period of enrollment in the program.

3. In order to establish a DAU, the landowner and/or operator 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. 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, 2020, unless rescinded by the District or relinquished by the landowner.

4. Certified irrigated tracts and the corresponding available water for each tract may be combined into a DAU provided that:

- a. All regulated wells and at least a portion of each certified irrigated tract to be included within the DAU must be within the geographic boundaries of a single Land Use Zone as delineated by the URF analysis completed using the WWUMM and within a floating square area measuring a maximum of three (3) miles by three (3) miles.
- b. A single DAU must consist solely of ground water only certified irrigated tracts or commingled certified irrigated tracts.
- c. 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.
- d. A certified irrigated tract cannot be included in more than one active DAU.
- e. PAUs may be included within a DAU.

5. The landowner, or a minimum of one landowner in the case of multiple ownerships, of a DAU established during any 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.

6. Any DAU may be rescinded by the District if any of the following situations exist:

- a. The ownership of any portion of a certified irrigated tract within the DAU changes and the new owner requests that the DAU be rescinded.
- b. Any portion of a certified irrigated tract within a ground water only DAU is placed under a contract with an irrigation district or canal company for delivery of surface water to any portion of a certified irrigated tract;
- c. Any portion of a ground water only certified irrigated tract becomes included in a surface water appropriation granted by the Department for irrigation with surface water on any portion of a certified irrigated tract;
- d. Any portion of a certified irrigated tract within a commingled only DAU changes to a ground water only source of irrigation water;
- e. Any portion of a certified irrigated tract within the DAU is enrolled in a temporary irrigation retirement program which requires cessation of irrigation for the period of enrollment in the program;
- f. The conditions described hereinabove for establishing a DAU are no longer being met; or
- g. Any other circumstance in violation of these Rules & Regulations or federal or state law.

7. If a DAU containing certified irrigated tracts comprised of certified irrigated acres which are subject to an allocation is rescinded by the District or relinquished by the landowner 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.

8. 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 based on the amount of remaining available water and the number of certified irrigated acres in each certified irrigated tract.

9. If rescinded, the amount of any carryforward for a DAU 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.

10. 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 between the

certified irrigated tracts based on the amount of the carryforward and the number of certified irrigated acres in each certified irrigated tract.

VIII. Acres Enrolled in Lease/Temporary Retirement Programs

1. Certified irrigated acres which are not being irrigated because they are enrolled in a program, such as the Conservation Reserve Program (CRP), Conservation Reserve Enhancement Program (CREP), Environmental Quality Incentive Program (EQIP), or others, shall not receive an allocation while those certified irrigated acres are enrolled in such program. However, if the landowner has a water penalty at the time of enrollment in such a federal program or set aside, credit equal to one year's base allocation will be given toward that water penalty for each year of enrollment and no further penalties will be assessed during the enrollment period. To receive this credit, landowner must provide the District with a copy of their fully executed contract of enrollment.

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

3. If prior to enrollment in such a program, there is any remaining available water for any portion of a certified irrigated tract to be enrolled, the remaining available water will be rescinded.

4. If prior to enrollment in such a program, any portion of a certified irrigated tract to be enrolled is 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 tracts comprised of certified irrigated acres subject to an allocation 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 portion of the certified irrigated tract will be rescinded. The prorated portion of the remaining available water for the certified irrigated tract not enrolled in such a program 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 tracts which will not be enrolled in such a program.

5. 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 such a program, 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 based on the amount of remaining available water and the number of certified irrigated acres in each irrigated tract not enrolled in such a program.

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

7. If certified irrigated acres are removed from such a program, or if the program contract 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 sum of the base allocation for each water year left in the allocation period.

8. Temporary retirement contracts between a landowner and the District will not be considered or entered into if there is currently a water penalty.

IX. Acres Under Permanent Retirement

1. Certified irrigated acres which are not being irrigated because they have been placed into permanent retirement will be decertified.

2. The regulated well which serves any certified irrigated acres that are placed into permanent retirement must be either used to provide ground water for the purpose of establishing a vegetative cover, converted or decommissioned within 180 days of execution of an agreement with the District, unless otherwise specified in the agreement. In the event the regulated well is used to establish a vegetative cover, no more than four (4) inches per acre of ground water may be used to accomplish this task, and the regulated well must be converted or decommissioned following the use of the four (4) inches per acre of ground water.

3. If prior to permanent retirement, there is any remaining available water for any portion of a certified irrigated tract to be retired, the remaining available water will be rescinded.

4. If prior to permanent retirement, any portion of a certified irrigated tract to be retired is 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 tracts comprised of certified irrigated acres subject to an allocation 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 retired portion of the certified irrigated tract will be rescinded. The prorated portion of the remaining available water for the certified irrigated tract not retired 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 tracts which will not be retired.

5. 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 retired, 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 based on the amount of remaining available water and the number of certified irrigated acres in each irrigated tract not retired.

X. Municipal Baselines

1. The District will calculate baseline consumptive use for each municipality in the District based on historic average annual consumptive use data for the interval of August 1, 2001, through July 31, 2006 or if unavailable through those dates, then a 5-year average beginning on the date of flowmeter installation. Consumptive use will be determined from ground water

pumping volumes and, where applicable, wastewater discharge volumes. The baseline will be used to determine annual changes in consumptive use. These annual changes in consumptive use will be tracked for each municipality through a reporting and database system administered by the NPNRD. Increases in annual consumptive use above the baseline will be subdivided into the following three categories: new or expanded commercial uses, increases in governmental uses, and increases in per capita consumptive use.

2. Each year, the District will be responsible for offsetting all increases in governmental consumptive uses, per capita use up to two hundred fifty (250) gallons per person per day, and new or expanded single commercial consumptive uses of less than twenty-five (25) million gallons per year. If a municipality holds a municipal transfer permit, then the District must offset any increased consumptive use above the baseline up to the amount granted in the municipal transfer permit. After January 1, 2026, the NPNRD will opt out of this requirement and will no longer be responsible for offsetting this amount.

3. Each year, the municipality will be responsible for offsetting all increases in per capita use greater than two hundred fifty (250) gallons per person per day and new or expanded single commercial consumptive uses of greater than twenty-five (25) million gallons per year. If a municipality holds a municipal transfer permit, then the municipality must offset any increased consumptive use above the baseline that is over the amount granted in the in the municipal transfer permit.

XI. Non-Municipal Baselines

1. The District will calculate baseline consumptive use for each non-municipal commercial user in the District based on historic average annual consumptive use data for the interval of August 1, 2001 through July 31, 2006, or if unavailable through those dates, then a 5-year average beginning on the date of flowmeter installation. Consumptive use will be determined from ground water pumping volumes and, where applicable, wastewater discharge volumes. The baseline will be used to determine annual changes in consumptive use. These annual changes in consumptive use will be tracked for each non-municipal commercial user through a reporting and database system administered by the NPNRD.

2. The District will be responsible for offsetting all new or expanded single commercial consumptive uses below the amount granted in the industrial transfer permit, if applicable, and the new or expanded use in amounts of less than or equal to twenty-five (25) million gallons per year. After January 1, 2026, the NPNRD will opt out of this requirement and will no longer be responsible for offsetting this amount.

3. The non-municipal commercial user will be responsible for offsetting all new or expanded consumptive uses above the amount granted in the industrial transfer permit, if applicable, or the entirety of the new or expanded use in excess of twenty-five (25) million gallons per year.

CHAPTER 6 – FLOW METERS AND TELEMETRY UNITS

1. Flow meters must be permanently installed on all regulated wells within the District, except livestock wells, aquaculture wells and wells serving wildlife certifications, prior to the use of any ground water in order to receive an allocation.

2. In the event of commingled water being pumped through one system, alternatives must be used to determine accurate ground water usage. Landowners shall have the option of installing a negative meter on the system to record the amount of surface water prior to commingling that water with ground water. The two flow meter reads obtained by the District will be used to calculate the actual ground water usage. In the absence of a negative meter, landowners must provide the District with relevant records to obtain an accurate ground water usage. If a landowner does not install a negative meter or does not provide the District with the necessary records, the District will consider all water through a flow meter as ground water.

3. The District has adopted a Flow Meters Policy Statement listing the flow meter brands that have been approved by the Board for installation and use within the District. A copy of this Policy Statement is available at the District office located at 100547 Airport Road, P.O. Box 280, Scottsbluff, Nebraska 69363. Only those flow meters included on this list are allowed to be installed and used.

4. Flow meters on the District approved list will be considered conforming flow meters, provided the requirements set forth in the remainder of this Chapter are met. Any flow meters that are not on the approved list of flow meters shall be designated as non-conforming flow meters. If a conforming flow meter cannot be installed, application for exception must be made to the District and approved prior to installation.

5. Flow meters installed prior to January 1, 2012, on a regulated well or irrigation system that are not included on the list of approved flow meters are considered non-conforming flow meters. These flow meters may remain installed on regulated wells and used until such time as they are no longer able to be repaired and brought into working order to accurately measure the amount of ground water withdrawn from the well. When this situation occurs, the flow meter must be replaced with a flow meter included on the approved list of flow meters and must conform to the specifications contained herein.

I. Specifications

1. Each flow meter must be installed in a location easily accessible to District personnel. The flow meter size, serial number and, if available, the direction of flow must be clearly stamped on the body of the meter. Each flow meter must have a District seal installed by District personnel.

2. Each flow meter must be installed according to the manufacturer's specifications and calibrated to the pipe size. Calibration must maintain an accuracy of plus or minus two percent (2%) of normal flow range. The inside pipe diameter for which the flow meter has been calibrated must be clearly shown on the flow meter to at least the nearest 0.01 of an inch.

3. The flow meter registry must have a visual volume-recording totalizer that shall record the volume of ground water withdrawn in acre-inches for irrigation wells and in gallons for other regulated wells. The flow meter registry must also be protected from the elements.

4. Totalizers must have sufficient capacity to record the quantity of ground water withdrawn from each regulated well for a period of one (1) year. Totalizers must be direct reading and the multiplier by which the rate of flow can be determined by timing must be clearly indicated.

5. Backflow devices are required where reverse flow occurs through the flow meter.

6. Flow meters must be capable of measuring all the ground water withdrawn from each regulated well, or from all regulated wells connected in a series, for each certified use.

II. Purchase

1. Landowner or ground water user shall be responsible for the purchase of any flow meter to be installed on any regulated well serving their lands. Landowner shall purchase a Board approved flow meter as detailed in the District's Flow Meters Policy Statement and that meets the specification requirements described in this Chapter.

2. The District shall be responsible for the purchase of any telemetry unit to be installed on any flow meter within the District.

III. Installation

1. Landowner or ground water user will be responsible for installing a flow meter in accordance with this Chapter.

2. District personnel must install a District seal and take an initial reading of the flow meter following the installation of any flow meter and prior to the withdrawal of any ground water from a regulated well. The landowner, ground water user or authorized operator must obtain approval from the District prior to removal of the District seal for any reason.

3. If a regulated well is used for more than one certified use, the amount of ground water withdrawn from that regulated well for each certified use must be measured by a separate flow meter, which shall be installed prior to the withdrawal of any ground water for any certified use. In cases where multiple wells serve one irrigation system, the flow meter may be installed on the irrigation system instead of on each regulated well serving the irrigation system. The landowner, ground water user or operator must obtain approval from the District and apply to the District for an exception prior to installing the flow meter on the irrigation system.

4. The District will be responsible for installing any telemetry unit to be connected to a flow meter.

IV. Ownership

1. Landowner or ground water user shall be the owner of any flow meter installed and shall be responsible for any costs of operation, maintenance, repair and replacement of the same, notwithstanding any costs incurred due to the negligence of District personnel during the course

of any District activities relating to the reading, installation, inspection, repair or replacement of a flow meter or telemetry unit.

2. This District shall be the owner of any telemetry unit installed on any flow meter within the District and shall be responsible for any costs of repair and replacement of the same, except any costs incurred due to the negligence of the landowner or the landowner's authorized operator during the course of operation or activities on the respective lands.

V. Operation, Maintenance, Repair and Replacement

1. As detailed in the District Flow Meters Policy Statement, District staff will perform regular maintenance on select flow meters through the flow meter maintenance program, unless landowner, ground water user or authorized operator specifically opts out of the program. However, landowner, ground water user or authorized operator shall be responsible for maintenance of the flow meter, including, but not limited to, clearing any debris build up, vegetative growth or any other material that would impede operation, performance, maintenance or repair of the flow meter. Landowner, ground water user or authorized operator shall keep each flow meter in good working condition and shall ensure that each flow meter is fully functional, properly maintained and operational.

2. The landowner, ground water user or authorized operator shall also ensure that their operations or activities do not cause damage to the District's telemetry unit. The landowner, ground water user and authorized operator shall be responsible for any damage to a telemetry unit that is caused by the operations or actions of the landowner, ground water user or authorized operator. The landowner, ground water user or authorized operator should install and maintain fencing, barriers, or other protection that would prevent any person, livestock or equipment from causing damage to a telemetry unit.

3. In accordance with the District's Flow Meters Policy Statement, landowner, ground water user or the landowner's authorized operator must report any malfunctioning flow meter or telemetry unit to the District office in Scottsbluff, Nebraska within twenty-four (24) hours after discovery. Malfunctioning flow meters or telemetry units discovered on a non-working day shall be reported before the District office closes on the first working day following the discovery. The landowner, ground water user or authorized operator must make a diligent effort to put the flow meter back into service or replace it, if it cannot be repaired, as soon as possible.

4. During the time in which such flow meter is malfunctioning, or if the flow meter has been removed from the regulated well for service, repair or replacement, the landowner, ground water user or authorized operator must use a method approved by the District to determine the volume of water withdrawn from the regulated well.

5. The landowner, ground water user or authorized operator must notify the District when a flow meter has been replaced, so that the replaced flow meter can be resealed, and any telemetry unit can be reconfigured by District personnel prior to use of the regulated well.

6. The District may require the landowner, ground water user or operator to provide information that will enable District personnel to determine the amount of energy used to operate any regulated well on which a flow meter has been installed. Such information shall be provided upon request, or the landowner, ground water user or authorized operator may authorize District

personnel to obtain such information from the entity providing energy to the regulated well. The District may request such information if a flow meter is malfunctioning or if there is reason to believe that the flow meter reading is incorrect. If any power source on a regulated well is equipped with an hour meter, the District may require the landowner, ground water user or authorized operator to provide the appropriate reading from said hour meter.

7. If the District requires the landowner, ground water user or authorized operator to provide information pursuant to this Chapter, due to a flow meter that has malfunctioned during a water year, a rate of flow test on the regulated well may be performed by District personnel. This measurement will be used in conjunction with any other information collected to determine the amount of ground water use for the certified ground water use for the water year in which the flow meter malfunctioned.

8. The landowner, ground water user or authorized operator will be contacted by District personnel to schedule an appointment to conduct a rate of flow test. If District personnel are unable to contact the landowner, ground water user or authorized operator personally, via telephone or other readily available means, the District will provide written notification to the landowner by certified mail to the most recent address contained in District records, requiring the landowner to schedule an appointment to conduct the rate of flow test.

9. Failure to provide any information as requested from District personnel regarding energy used to operate any regulated well on which a flow meter has been installed, or to schedule and conduct the rate of flow test with District personnel, shall result in the suspension of ground water withdrawal from the regulated well until such time as this information is provided and the rate of flow test is conducted.

VI. Access and Readings

1. District personnel, or its designated agents, following notification to the landowner or operator, shall have access to each regulated well, flow meter and telemetry unit, as well as any reasonable area surrounding the regulated well, flow meter and telemetry unit. District personnel, or its designated agents, shall have access in order to read and record flow meter and telemetry unit information, evaluate the performance and accuracy of the flow meter and telemetry unit, determine whether a flow meter or telemetry unit has been tampered with, install, inspect, repair or replace a flow meter or telemetry unit, or any other appropriate purpose.

VII. Specific Violations

1. Any attempt to willfully damage, alter, remove, reset, adjust, manipulate, obstruct or in any manner interfere with or tamper with any flow meter by any person shall be considered a specific violation of this Chapter and are subject to the enforcement provisions of Chapter 14.

2. Any attempt to remove, damage or unfasten any seal placed on a flow meter by the District, by any person other than authorized District personnel shall be considered tampering with a flow meter which is a specific violation of this Chapter and is subject to the enforcement provisions of Chapter 14.

CHAPTER 7 – WELL CONSTRUCTION PERMITS

A well construction permit must be obtained by any person who intends to construct a regulated well, with the exception of wells that serve feedlot and aquaculture certifications, within the District boundaries. Any construction or drilling prior to obtaining a permit from the District is strictly prohibited.

I. Application

1. Permit application forms provided by the District must be completed in full, signed by the applicant and filed with the District. The applicant must pay a non-refundable permit application fee of fifty dollars (\$50), which shall be paid at the time the application is filed with the District.

2. Once the District receives a completed application and the permit application fee, the application shall be reviewed and either approved, approved with conditions, or denied within thirty (30) days after the completed application is filed.

3. Any person who fails to obtain a well construction permit from the District prior to construction or drilling must complete and file with the District an application form provided by the District for a late permit. The applicant must pay a non-refundable late application fee of two hundred fifty dollars (\$250) to the District, which shall be paid at the time the application is filed with the District. Any construction or drilling that has or is taking place shall cease until the District approves and issues a late permit. If a well has been drilled prior to obtaining a permit, and a subsequent late permit application is denied by the District, the illegal well must be decommissioned.

4. If the applicant receives a permit from the District, the applicant shall commence construction as soon thereafter as possible in order to complete construction and equip the water well within six (6) months of permit approval. If the applicant fails to complete the project under the terms of the permit, the District shall cancel the permit, and a new permit application and permit application fee will be required to continue construction.

5. An application for a permit or late permit shall be denied only if the District determines one of the following is applicable:

- a. The location or operation of the proposed water well or other works would conflict with any rules and regulations adopted by the District;
- b. That the proposed use would not be a beneficial use of water; or
- c. In the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit.

II. Moratorium

1. The expansion of irrigated acres and increases in consumptive use of ground water withdrawn from regulated wells is prohibited within the District, unless the District approves an

offset, which shall be provided by the landowner or the entity responsible for the office under the provisions of Neb. Rev. Stat. §46-740, that mitigates all third-party impacts and results in no new depletions to the North Platte River and its tributaries within the District.

2. Well construction permits for new regulated wells will not be issued unless at least one of the following conditions is met:

- a. The construction of a new regulated well is subject to Neb. Rev. Stat. §46-740;
- b. An approved District transfer permit includes a transfer of the point of ground water withdrawal;
- c. The construction of a new regulated well is for the purpose of a backup well; or
- d. The applicant has provided a District approved offset for the construction of a new regulated well.

3. Well construction permits will be issued for replacement wells only if the provisions of state law and the District rules and regulations are met.

4. Well construction permits may be issued in cases where certified irrigated acres have been severed from the regulated irrigation well certified to those acres due to (1) a change in ownership of the severed certified irrigated acres and/or the regulated well and no other ground water source exists for the severed certified irrigated acres, or (2) the degradation of a ground water conveyance structure that is part of an easement with a railroad or a government entity. The regulated well that is constructed to serve the severed certified irrigated acres shall be considered a special circumstance replacement well.