

draft

RULES and REGULATIONS

**Ground Water Management Area
And
Integrated Management Plan
For that Portion of the
Republican River Basin
In the
Middle Republican
Natural Resources District**

Effective October 11, 2004

draft

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PREFACE

Legislative Intent.

The Legislature finds that ownership of water is held by the state for the benefit of its citizens, that ground water is one of the most valuable natural resources in the state, and that an adequate supply of ground water is essential to the general welfare of the citizens of this state and to the present and future development of agriculture in the state. The Legislature recognizes its duty to define broad policy goals concerning the utilization and management of ground water and to ensure local implementation of those goals. The Legislature also finds that natural resources districts have the legal authority to regulate certain activities and, except as otherwise specifically provided by statute, as local entities are the preferred regulators of activities which may contribute to ground water depletion.

Every landowner shall be entitled to a reasonable and beneficial use of the ground water underlying his or her land subject to the provisions of Chapter 46, article 6, and the Nebraska Ground Water Management and Protection Act and the correlative rights of other landowners when the ground water supply is insufficient for all users. The Legislature determines that the goal shall be to extend ground water reservoir life to the greatest extent practicable consistent with beneficial use of the ground water and best management practices.

The Legislature further recognizes and declares that the management, protection, and conservation of ground water and the beneficial use thereof are essential to the economic prosperity and future well-being of the state and that the public interest demands procedures for the implementation of management practices to conserve and protect ground water supplies and to prevent the contamination or inefficient or improper use thereof.

The Legislature recognizes the need to provide for orderly management systems in areas where management of ground water is necessary to achieve locally determined ground water management objectives and where available data, evidence, or other information indicates that present or potential ground water conditions, including subirrigation conditions, require the designation of areas with special regulation of development and use.

The Legislature recognizes that ground water use or surface water use in one natural resources district may have adverse effects on water supplies in another district or in an adjoining state. The Legislature intends and expects that each natural resources district within which water use is causing external impacts will accept responsibility for ground water management in accordance with the Nebraska Ground Water Management and Protection Act in the same manner and to the same extent as if the conflicts between ground water use and surface water use were contained within the district.

Legislative Findings

The Legislature finds that:

(a)(1) The management, conservation, and beneficial use of hydrologically connected ground water and surface water are essential to the continued economic prosperity and well-being of the state, including the present and future development of agriculture in the state;

(2) Hydrologically connected ground water and surface water may need to be managed differently from unconnected ground water and surface water in order to permit equity among water users and to optimize the beneficial use of interrelated ground water and surface water supplies;

(3) Natural resources districts already have significant legal authority to regulate activities which contribute to declines in ground water levels and to nonpoint source contamination of ground water and are the preferred entities to regulate, through ground water management areas, ground water related activities which are contributing to or are, in the reasonably foreseeable future, likely to contribute to conflicts between ground water users and surface water appropriators or which may be necessary in order to resolve disputes over interstate compacts or decrees, or to carry out the provisions of other formal state contracts or agreements;

(4) The Department of Natural Resources is responsible for regulation of surface water resources and local surface water project sponsors are responsible for much of the structured

irrigation utilizing surface water supplies, and these entities should be responsible for regulation of surface water related activities which contribute to such conflicts or provide opportunities for such dispute resolution;

(5) The department, following review and concurrence of need by the Interrelated Water Review Committee of the Nebraska Natural Resources Commission, should also be given authority to regulate ground water related activities to mitigate or eliminate disputes over interstate compacts or decrees or difficulties in carrying out the provisions of other formal state contracts or agreements if natural resources districts do not utilize their ground water management authority in a reasonable manner to prevent or minimize such disputes or difficulties; and

(6) All involved natural resources districts, the department, and surface water project sponsors should cooperate and collaborate on the identification and implementation of management solutions to such conflicts or provide opportunities for mitigation or elimination of such disputes or difficulties

(b)(1) The levels of nitrate nitrogen and other contaminants in ground water in certain areas of the state are increasing;

(2) Long-term solutions should be implemented and efforts should be made to prevent the levels of ground water contaminants from becoming too high and to reduce high levels sufficiently to eliminate health hazards;

(3) Agriculture has been very productive and should continue to be an important industry to the State of Nebraska;

(4) Natural resources districts have the legal authority to regulate certain activities and, as local entities, are the preferred regulators of activities which may contribute to ground water contamination in both urban and rural areas;

(5) The Department of Environmental Quality should be given authority to regulate sources of contamination when necessary to prevent serious deterioration of ground water quality;

(6) The powers given to districts and the Department of Environmental Quality should be used to stabilize, reduce, and prevent the increase or spread of ground water contamination; and

(7) There is a need to provide for the orderly management of ground water quality in areas where available data, evidence, and other information indicate that present or potential ground water conditions require the designation of such areas as management areas.

CHAPTER 1 ADMINISTRATION

AUTHORITY - These rules and regulations are adopted pursuant to the authority granted in the Nebraska Ground Water Management and Protection Act.

PURPOSE - The purposes of the management area herein designated are (1) to maintain, in accordance with the district's ground water management plan, a ground water reservoir life of at least seventy five years, or at least until the year 2073; (2) to otherwise protect ground water quantity; (3) the protection of ground water quality; and (4) the prevention or resolution of conflicts between users of ground water and appropriators of surface water, which ground water and surface water are hydrologically connected.

RULE 1-1 MANAGEMENT AREA DESIGNATION AND BOUNDARIES.

A ground water management area is hereby designated in the Middle Republican Natural Resources District. The geographic boundary of such management area will coincide with the boundaries of the Middle Republican Natural Resources District. The stratigraphic boundary of the area is from the land surface to the base of the underlying sand and gravel layers that contain the water bearing material. The base of the sand and gravel layers rest on impervious layers of Niobrara Chalk, Pierre Shale or formations from the White River Group. (see Map 1.)

RULE 1-2. VARIANCES

- 1-2.1 The Board may grant variances from the strict application of these rules and regulations upon good cause shown.
- 1-2.2 All requests for a variance shall be made on forms provided by the district and will be acted upon at a formal adjudicatory hearing before the district. This hearing will be advertised in the legal newspaper of the district and all known involved parties will be advised of the hearing. The well owner or his representative shall be present at the hearing. With prior notification to the district, written testimony may be provided if the well owner can not be present.
- 1-2.3 The Board, at its discretion, may designate conditions under which specific requests for a variance may be approved by methods other than a formal adjudicatory hearing. A variance granted under these conditions shall be referred to as an expedited variance.
- 1-2.4 An application for a permit to construct a well, that is contingent upon the approval of a variance, shall not be considered a completed application until action is taken on consideration of the variance request.

RULE 1-3. EXPEDITED VARIANCE

- 1-3.1 The Board hereby approves the following expedited variances and allows approval without board consideration:

1. Alternative methods for metering of wells that pump less than 250 gallons per minute.
 2. Exempt unused and inactive wells from metering requirement until well is placed into active service or is otherwise used.
 3. Approval of permits to construct a contamination / remediation well for the purpose of withdrawal or treatment of contaminated water, or for the introduction or removal of air, water or chemicals. The expedited variance request shall include written approval of the state agency with supervisory responsibility for the planned project.
 4. Approval of permits to construct a monitoring / observation well for the purpose of withdrawal of water or the observation of water levels during aquifer testing, collection of water quality samples and providing hydrologic information. A monitoring / observation well shall not have a permanent pump installed. The expedited variance request shall include the planned disposition of the well after its intended use is completed.
- 1-3.2 All requests for an expedited variance shall be made on forms provided by the district.
- 1-3.3 Approval, approval with conditions or denial of a properly completed request for an expedited variance will be made within thirty (30) days of the receipt of the completed variance.

RULE 1-4. SEVERABILITY

If any rule or any part of any rule herein shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

RULE 1-5. VIOLATIONS

These rules and regulations shall be enforced by the district through the use of cease and desist orders issued in accordance with the "Rules and Regulations for the Enforcement of the Nebraska Ground Water Management and Protection Act", adopted on March 27, 2000, and section II, subsection E, Rule 4 of the "General Policy Statement". Any person who violates a cease and desist order issued by the district pursuant to 46-707 shall be subject to a civil penalty assessed pursuant to section 46-745, Reissue Revised Statutes of Nebraska.

RULE 1-6. ACCESS

- 1-6.1 The District shall have the right to access property, after notification of landowner, to certify or verify the installation of flow meters.
- 1-6.2 The district shall have the right to trespass, after notification of landowner, for any and all reasons relative to the administration of the Ground Water Management Area, and provisions of the Ground Water Management and Protection Act.
- 1-6.3 The District hereby notifies all ground water irrigation users of the intent to enter onto property, to read or verify the readings of flow meters or other

devices used to measure the quantity of ground water used for irrigation. This process will begin October 1 each year.

RULE 1-7. PENALTIES

Any person who violates any cease and desist order issued by a district pursuant to 46-707 or any controls or rules or regulations adopted by the NRD relating to the management area shall be subject to penalties imposed through the controls adopted by the district including, but not limited to, having any allocation of water granted or irrigated acres certified by the district reduced in whole or in part. Notice and hearing shall be provided to such person before a district takes any action. Specific penalties may be identified in rule and regulation for some violations.

RULE 1-8. WATER SHORT YEAR ADMINISTRATION

When notified by the Department of Natural Resources that predictions from the Bureau of Reclamation have triggered the determination of a Water Short Year, the District shall require additional actions to insure that Nebraska's computed beneficial consumptive use above Guide Rock is limited to not more than Nebraska's allocation that is derived from sources above Guide Rock. Using information provide by the Department of Natural Resources, the District will consider recommendations with regard to the reduction of irrigated acres and adjustments in allocations. Water short year administration shall apply to that portion of the Middle Republican Natural Resources District that lies within the boundary of the Republican River Basin as defined by the Republican River Compact. The Middle Republican NRD shall be responsible to make adjustments for no more than their share of the depletions to streamflow caused by ground water pumping.

- 1-8.1 The designation of a water short year for the 2006 crop year or later shall require a reduction of 10% in acres.
- 1-8.2 The second consecutive designation of a water short year will require an additional 15% reduction in irrigated acres served by quick response wells.
- 1-8.3 Allocation in a water short year during or after the 2006 crop year will be limited to base allocation.
- 1-8.4 Notification of allocation adjustments shall be provided in accordance with the public notice requirements of the District.
- 1-8.5 Participation in incentive, set aside or irrigated land retirement programs shall be a consideration in the degree to which allocations must be adjusted or reduction of irrigated acres imposed.

RULE 1-9 HISTORY OF USE

To be eligible for district administered incentive program, transfer of use or transfer of registration the acres offered or the use considered for transfer must have a history of use in 4 of the previous 6 years.

CHAPTER 2

RULE 2-1. DEFINITIONS

- 2-1.1 Abandoned Well: means any water well, the use of which has been accomplished or permanently discontinued, which has been decommissioned as described in the rules and regulations of the Department of Health and Human Services Regulation and Licensure, and a notice of abandonment has been filed with the Department of Natural Resources
- 2-1.2 Act: The Nebraska Ground Water Management and Protection Act.
- 2-1.3 Additional Water Administration Year: When water is needed for diversion at Guide Rock and the projected or actual irrigation supply is less than 130,000 acre feet of storage available for use in Harlan County Lake.
- 2-1.4 Allocation. As it relates to water use for irrigation purposes, means the allotment of a specified total number of acre-inches of irrigation water per certified irrigated acre per year or an average number of acre-inches of irrigation water per certified irrigated acre over any reasonable period of time. As it relates to other purposes, the allotment of a determined quantity of ground water.
- 2-1.5 Alluvial Sub area: An area designated by the district where the primary source of ground water is from the alluvial aquifer.
- 2-1.6 Animal Unit: A unit of measurement for any livestock operation. For each type of livestock identified below, the number of animal units shall be the number of livestock in the livestock operation times the number that follows that type.
- | | | | |
|-------------------------|------|---------------|-----|
| Slaughter/Feeder Cattle | 1.0 | Cow/calf pair | 1.2 |
| Dairy Cow | 1.4 | Swine >55 lbs | 0.4 |
| Swine <55 lbs | 0.05 | Horse | 2.0 |
| Chickens | 0.01 | Sheep | 0.1 |
- 2-1.7 Backup Well. Used in conjunction with a livestock operation well or an industrial well, a backup well may only be operated in emergency situations. A backup well cannot be used at the same time as the primary well or wells. A backup well may not be subject to the increased spacing requirements of the district.
- 2-1.8 Best management practice (BMP) shall mean schedules of activities, maintenance procedures, and other management practices utilized to prevent or reduce present and future contamination of ground water which may include, but not be limited to, irrigation scheduling, proper rate and timing of fertilizer application and other fertilizer and pesticide management programs.
- 2-1.9 BCCP: Basin Compact Compliance Plan is a basin wide approach to a plan for the State of Nebraska's maintaining compliance with the Republican River Compact and the United States Supreme Court approved Final Settlement Stipulation in Kansas v. Nebraska, No. 126
- Original

- 2-1.10 Board: The elected board of directors of the Middle Republican Natural Resources District.
- 2-1.11 Certification: The process whereby the annual use of ground water for a regulated well is reported to and verified by the district.
- 2-1.12 Certified Irrigated Acre: Any acre that is certified as such pursuant to rules and regulations of the district and that is actually capable of being supplied water through irrigation works, mechanisms or facilities existing at the time of allocation.
- 2-1.13 Consumptive Use: is that 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.
- 2-1.14 Contaminant or contamination of ground water shall mean a material which enters the ground water due to the 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.
- 2-1.15 Critical Unit(s): An area designated by the district where circumstances require additional controls.
- 2-1.16 Dewatering Well: shall mean a water well constructed for the purpose of temporarily lowering the ground water surface elevation.
- 2-1.17 District, NRD, MRNRD: The Middle Republican Natural Resources District.
- 2-1.18 Flow meter: a device, approved by the district, to measure the quantity of ground water pumped, withdrawn, or taken from a water well.
- 2-1.19 Good Cause Shown: shall mean a reasonable justification for granting a variance to consumptively use water that would otherwise be prohibited by rule or regulation and which the district reasonably and in good faith believes will provide an economic, environmental, social or public health and safety benefit that is equal to or greater than the benefit resulting from the prohibition from which a variance is sought.
- 2-1.20 Ground Water: ground water shall mean that water which occurs in or moves, seeps, filters, or percolates through ground under the surface of the land.
- 2-1.21 Historic Consumptive Use: is that amount of water that has previously been consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use was lawfully made.
- 2-1.22 Illegal water Well: (a) any water well operated or constructed without or in violation of a permit required by the act, (b) any water well not in compliance with rules and regulations adopted and promulgated pursuant to the act, (c) any water well not properly registered in accordance with sections 46-602 to 46-604, (d) any water well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws.
- 2-1.23 Inactive Status Well: shall mean a water well that is not currently in use, but is in a good state of repair and for which the owner has provided

evidence of intent for future use by maintaining the water well in a manner which meets the following requirements: (1) the water well does not allow impairment of the water quality in the water well or of the ground water encountered by the water well; (2) the top of the water well or water well casing has a water-tight welded or threaded cover or some other water-tight means to prevent its removal without the use of equipment or tools to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the water well; and (3) the water well is marked so as to be easily visible and located and is labeled or otherwise marked as to be easily identified as a water well and the area surrounding the water well is kept clear of brush, debris, and waste material. An inactive status water well shall be registered as such in the well registration records of the Nebraska Department of Natural Resources.

- 2-1.24 Incentive program: shall mean a program that may require agreements or covenants concerning the use of land or water as necessary to produce the benefits for which the program is established.
- 2-1.25 Industrial Well: Purposes include but are not limited to; manufacturing, commercial and power generation uses of water. Commercial includes, but is not limited to maintenance of the turf of a golf course.
- 2-1.26 Late Permit: shall mean a permit applied for after construction has commenced on a water well.
- 2-1.27 Livestock Operation Well: A regulated water well providing for the watering of animals in a "livestock operation" or "confined livestock operation" as those terms are defined in Chapter 1 of Title 130, Nebraska Administrative Code, and for which a livestock waste control facility permitted by the Nebraska Department of Environmental Quality is required.
- 2-1.28 Livestock well: A water well not classified as a livestock operation well but which is used for the watering of (1) livestock, poultry, farm and domestic animals used in operating a farm or (2) domestic livestock as related to normal farm and ranch operations or (3) range livestock or stock use on a farm or ranch.
- 2-1.29 Maximum Contaminant Level (MCL): shall mean the maximum permissible level of a substance or matter in ground water.
- 2-1.30 Non Critical Unit(s): An area designated by the district where all or a portion of the controls adopted by the district may be excused.
- 2-1.31 Operator: The person who controls the day-to-day operation of the water well.
- 2-1.32 Permit: shall mean a document that must be obtained from the district in accordance with Rule 6 before construction of a water well may be commenced in the management area.
- 2-1.33 Person: A natural person, a partnership, a limited liability company, an association, a corporation, a municipality, an irrigation district, an agency or a political subdivision of the state, or a department, an agency, or a bureau of the United States.

- 2-1.34 Platte sub area: That portion of the Middle Republican NRD that is located outside the boundaries of the Republican River Basin as delineated for the Republican River Compact.
- 2-1.35 Quick response sub area: That area included in the area delineated by the Department of Natural Resources and shown on map 1.
- 2-1.36 Quick Response wells: Those wells located in or serving acres in the quick response sub area.
- 2-1.37 Reduction of Acres: A uniform percentage reduction of each landowners irrigated acres. Such uniform reduction may be adjusted for each landowner based upon crops grown on his or her land to reflect the varying consumptive requirements between crops.
- 2-1.38 Regulated well: A water well designed and constructed to pump more than fifty (50) gpm. A series of water wells, with a combined discharge of more than fifty (50) gallons per minute, of which the water is commingled, combined, clustered or joined as a single unit for a single purpose shall be considered as one regulated well.
- 2-1.39 Replacement Well: a water well which (a) replaces a previously abandoned water well within three years of the last operation of the abandoned water well or replaces a water well that will not be used after construction of the new water well and the original water well will be decommissioned within one year of construction of the new water well and (b) is constructed to provide water to the same tract of land served by the water well being replaced (c) would not be used to provide water to a use not certified with the well being replaced and (d) would not be used in such a way as to result in the consumption of more water than was historically consumed by the water well being replaced. A replacement well, as defined in section 46-602 or as further defined in district rules and regulations, is subject to the same provisions as the water well it replaces.
- 2-1.40 Reserve: That part of an allocation that is unused during the base allocation period.
- 2-1.41 Supplemental Well: A regulated well that provides supplemental ground water to acres that are normally irrigated by surface water. Annual use is not required for supplemental wells.
- 2-1.42 Transfer: A permit process whereby the point of use, type of use or rules governing the use of ground water is exchanged or moved.
- 2-1.43 Test Hole: shall mean a hole designed solely for the purpose of obtaining information on hydrologic or geologic conditions.
- 2-1.44 Unregulated well: a water well designed and constructed to pump fifty (50) gpm or less and is not commingled, combined, clustered or joined with other water wells.
- 2-1.45 Unused / Seldom Used Well: a water well that has not been placed in inactive status but is used less than 1 year in 3.
- 2-1.46 Upland Sub area: That area of the district not delineated as the quick response sub area or the Platte sub area.

- 2-1.47 Variance: approval to act in a manner contrary to existing rule or regulation from a governing body whose rule or regulation is otherwise applicable.
- 2-1.48 Water Short Year Administration: will be in effect in those years in which the projected or actual irrigation supply is less than 119,000 acre feet of storage available for use in Harlan County Lake.
- 2-1.49 Water Well: any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, obtaining hydrogeologic information or extracting water from or injecting water into the underground water reservoir. Water well does not include 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.
- 2-1.50 Wellhead Protection Area A delineated area around a public water supply well or wells, used for human needs, representing the thresholds based on time of travel of ground water toward the public water supply.

CHAPTER 3. PERMITS**RULE 3-1. PERMIT TO CONSTRUCT A WATER WELL**

- 3-1.1 Except as provided in Rule 3-1.3 any person who intends to construct a water well on land in the management area which he or she owns or controls shall, before commencing construction, apply with the district for a permit on a form provided by the district. The District shall review such applications and issue the approved permit, with or without conditions, or deny the permit within 30 days after the application is properly prepared and received. An incomplete or defective application shall be returned for correction. If correction is not made within 60 days the application shall be cancelled.
- 3-1.2 Applications for a permit to construct that require consideration of a variance request shall not be deemed as properly filed and complete until such time as the board has acted on the variance request.
- 3-1.3 Exceptions. No permit shall be required for:
- 3-1.3.1 Test holes
 - 3-1.3.2 Dewatering wells with an intended use of ninety days or less.
 - 3-1.3.3 A single water well designed and constructed to pump fifty gallons per minute or less.
- 3-1.4 A permit is required for a water well designed and constructed to pump fifty gallons per minute or less if such water is commingled, combined, clustered, or joined with any other water well or wells or other water source, other than a water source used to water range livestock. Such wells shall be considered one well and the combined capacity shall be used as the rated capacity.
- 3-1.5 A person shall apply for a permit before he or she modifies a water well, for which a permit was not required when the well was constructed, into one for which a permit would otherwise be required.
- 3-1.6 The application shall be accompanied by a \$50.00 filing fee payable to the district and shall contain:
- 3-1.6.1 The name and post office address of the well owner.
 - 3-1.6.2 The nature of the proposed use.
 - 3-1.6.3 The intended location of the proposed water well or other means of obtaining ground water.
 - 3-1.6.4 The intended size, type and description of the proposed water well and the estimated depth.
 - 3-1.6.5 The estimated capacity in gallons per minute.
 - 3-1.6.6 The acreage and location by legal description of the land involved if the intended use is for irrigation.
 - 3-1.6.7 A description of the proposed use if other than irrigation.
 - 3-1.6.8 The registration number of the well being replaced, if applicable.
 - 3-1.6.9 The certified use of the well being replaced.
 - 3-1.6.10 The historic consumptive use of the well being replaced.
 - 3-1.6.11 Such other information as the district may require.

- 3-1.7 Any person who has failed or in the future fails to obtain a permit before construction is commenced shall make application for a late permit of forms provided by the district.
- 3-1.8 The application for a late permit shall be accompanied by a \$250.00 fee payable to the district and shall contain the same information required in Rule 3-1.6.
- 3-1.9 An application for a new well with an intended consumptive use of more than 300 acre feet over a 12 month period, in addition to the information required by 3-1.6 the applicant shall provide the district with
- 3-1.9.1 The availability to the applicant of alternative sources of surface or ground water,
- 3-1.9.2 Any negative effect of the proposed withdrawal on ground water and surface water supplies needed to meet present or reasonable future demands for water in the intended area of withdrawal within the state, to comply with any interstate compact or decree, or to fulfill the provisions of any other formal state contract or agreement,
- 3-1.9.3 Any adverse environmental effect of the proposed withdrawal.
- 3-1.10 The cumulative effect of the proposed withdrawal relative to the matters listed in 3-1.9.1 through 3-1.9.3
- 3-1.11 The application for a permit shall be denied only if (1) the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the district, (2) the proposed use would not be a beneficial use (3) in the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit.
- 3-1.12 No refund of any application fees shall be made regardless of whether the permit is issued, canceled or denied.
- 3-1.13 The issuance, by the district, of a permit or the registration of a water well shall not vest in any person the right to violate any district rule, regulation, or control in effect on the date of issuance of the permit or the registration of the water well or to violate any rule, regulation, or control properly adopted after such date.
- 3-1.14 The applicant shall commence construction as soon as possible after the date of approval and shall complete construction and equip the water well prior to the date specified in the conditions of approval, which shall not be more than one year from the date of approval.

RULE 3-2 PERMIT TO TRANSFER ALLOCATION

- 3-2.1 Any person who intends to withdraw ground water and transfer that ground water off the overlying land which he or she owns or controls or otherwise change the location of use of ground water shall, before making such transfer, apply for a permit on forms provided by the district.
- 3-2.2 Issuance of the permit shall be conditioned on the applicant's compliance with the rules and regulations of the district from which the water is withdrawn.

- 3-2.3 The applicant shall be required to provide access to his or her property at reasonable times for purposes of inspection by officials of the district.
- 3-2.4 In determining whether to grant or deny such permit the district shall consider and the applicant shall provide:
 - 3-2.4.1 The nature of the proposed use and whether it is a beneficial use of ground water,
 - 3-2.4.2 The availability to the applicant of alternative sources of surface or ground water,
 - 3-2.4.3 Any negative effect of the proposed withdrawal on ground water and surface water supplies needed to meet present or reasonable future demands within the state, to comply with any interstate compact or decree, or to fulfill the provisions of any other formal state contract or agreement,
 - 3-2.4.4 Any adverse environmental effect of the proposed withdrawal or transportation of ground water,
 - 3-2.4.5 The cumulative effect of the proposed withdrawal and transfer relative to the matters listed in 3-2.4.1 through 3-2.4.5
 - 3-2.4.6 Any other factors consistent with the purposes of this section that the District deems relevant to protect the health, safety, and welfare of the district and its citizens.
- 3-2.5 The application shall be completed on forms provided by the district and shall be accompanied by a \$50.00 filing fee payable to the district and shall contain:
 - 3-2.5.1 The name and post office address of the well owner.
 - 3-2.5.2 The point of withdrawal
 - 3-2.5.3 The point of transfer
 - 3-2.5.4 The registration number of the water wells involved.
 - 3-2.5.5 The certified acres of the water wells involved
 - 3-2.5.6 The information required by section Rule 3-2.4
 - 3-2.5.7 Such other information as the district may require.
- 3-2.6 The application for a transfer permit shall be denied if (1) the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the district, (2) the proposed use would not be a beneficial use (3) there are adverse impacts from the information provided in rule 3-2.4.
- 3-2.7 The issuance, by the district, of a permit to transfer shall not vest in any person the right to violate any district rule, regulation, or control in effect on the date of issuance of the permit or to violate any rule, regulation, or control properly adopted after such date.
- 3-2.8 The issuance, by the district, of a permit to transfer shall not vest in any person the right to violate any statute, state agency or other jurisdictional agencies rule, regulation, or control in effect on the date of issuance of the permit or to violate any rule, regulation, or control properly adopted after such date. It is the responsibility of the applicant to insure compliance with other rules and regulations.

- 3-2.9 No refund of any application fees shall be made regardless of whether the permit is issued, canceled or denied.
- 3-2.10 The District shall review such applications and issue, with or without conditions, or deny the permit within 30 days after the application is properly filed. An incomplete or defective application shall be returned for correction. If correction is not made within 60 days the application shall be cancelled.

CHAPTER 4 MANAGEMENT

RULE 4-1 MORATORIUM

- 4-1.1 The district finds that the use of hydrologically connected ground water and surface water resources is contributing to conflicts between ground water and surface water users and to disputes over the Republican River Compact. The District hereby closes all of the management area, as defined in rule 1-1, to the issuance of new permits for regulated wells except as provided in 4-1.2.
- 4-1.2 Replacement wells, backup wells as defined in 2-1.7, wells for industrial purposes and public water supply wells to be used for domestic purposes.
- 4-1.3 The board may upon further deliberation, notice and hearing open designated areas of the District to additional well permits.

RULE 4-2. TRANSFERS

- 4-2.1 Transfers out of the district. Any person who desires to withdraw ground water from wells located within the district and to transfer the ground water withdrawn out of the district for use elsewhere may do so after obtaining the district's permission therefore and as long as the withdrawal, transfer and use of the waters are consistent with all applicable statutes, rules and regulations. Withdrawal of such water shall be consistent with all rules and regulations of this district. Use of such transferred water shall be consistent with all rules and regulations in the natural resources district or other jurisdictional entity where the water is used. If no rules and regulations are established in that natural resources district or other jurisdictional entity where the water is used, then the rules and regulations of this district shall apply.
- 4-2.2 Transfers into the district. Any person who desires to withdraw ground water from wells located outside the district and to transfer the ground water withdrawn into the district may do so after obtaining the district's permission and as long as the withdrawal, transfer and use of the waters are consistent with all applicable statutes, rules and regulations. Use of such water shall be consistent with all rules and regulations of this district. Withdrawal of such water shall be consistent with any and all rules and regulations of the natural resources district or other jurisdictional entity in which it is withdrawn. If no rules and regulations are established in that natural resources district or other jurisdictional entity where the water is withdrawn, then the rules and regulations of this district shall apply.
- 4-2.3 Transfer out of State. Requests for transfer of ground water out of state pursuant to section 46-613. shall not be acted upon by the district until such time as the approval or denial, by the state, of the required transfer permit.
- 4-2.4 Transfer of Use. A portion or all of an allocation may be transferred to another user for the same or another use. Only the unused portion of an allocation can be transferred. If an allocation had been completely used, no transfer of use would be available until the next allocation period.

Reserve associated with the allocation or portion thereof may also be transferred. Reserve may not be transferred alone.

- 4-2.4.1 If the transfer of use is for the entire allocation, the well cannot be used during the period of time covered by the transfer. The well must be configured to prevent the possibility of contamination of the ground water.
- 4-2.5 Transfer of Registration. A permanent transfer may be accomplished by decommissioning a well and discontinuing its certified use and transferring the right to that use to another owner. The new well shall be limited to no more than the certified use from the well being replaced.
- 4-2.5.1 If the well registration being transferred is part of a series or a well that is commingled, combined, clustered or joined with other water wells, then only that equal portion of the allocation is transferred.
- 4-2.6 The allocation for any use is associated with the certification of that use. The right to use the allocation would be surrendered with a transfer of use or registration. The new user would be limited to the quantity of allocation associated with the certified use and would be subject to the same restrictions on volume of use as the original allocation. A portion of the allocation for a municipal use may be transferred to another use. The amount transferred would be deducted from the municipal allocation.
- 4-2.7 The District may further limit the allocation upon transfer of use if the use is between hydrologic units with different allocations.
- 4-2.8 Transfer of use or registration may be made within sub areas, from the quick response sub area to the upland sub area, and out of a critical unit.
- 4-2.9 The district may limit the allocation to the consumptive use if the transfer is to a different preference use.
- 4-2.10 It shall be the responsibility of the person requesting a transfer to (a) ensure that the transfer is consistent with the purposes of the management area (b) show that the transfer will not have an adverse effect on other ground or surface water users (c) prevent adverse effect on the state's ability to comply with the Republican River Compact and (d) otherwise protect the public interest and prevent detriment to the public welfare.
- 4-2.11 All requests for a transfer shall be made on forms provided by the district.
- 4-2.12 A hearing shall be scheduled for consideration of a properly completed application within thirty days of the receipt of that application.
- 4-2.13 Requests for transfer will be approved, approved with conditions or denied within 45 days after the hearing to consider the request.
- 4-2.14 All requests for a transfer shall show compliance with Rule 1-9 History of Use.

RULE 4-3. WELL SPACING

- 4-3.1 No regulated well except a backup well shall be constructed upon any land in this district within one thousand three hundred and twenty (1320)

feet of any other registered regulated well, regardless of ownership except;

- 4-3.1.1 any irrigation water well that replaces an irrigation water well which was drilled prior to September 20th, 1957, and which is less than 600 feet from a registered irrigation well may be located closer to another regulated well than 1320 feet if it is drilled within fifty feet of the water well being replaced.
- 4-3.1.2 A replacement well may be constructed less than one thousand three hundred and twenty (1320) feet from another registered regulated water well, if it is constructed within one hundred (100) feet of the water well it replaces or is relocated no closer than the well it replaces to other wells and if such replaced water well was, when constructed, in compliance with all applicable laws, rules and regulations.
- 4-3.2 The well spacing required by Rule 4-3.1 shall also apply to the distance between a proposed new regulated well and an unregistered regulated water well but only for a period of thirty days to allow for registration of such unregistered water well.

Rule 4-4. FLOW METERS

- 4-4.1 Flow meters meeting accuracy specifications established in Rule 4.4.3 shall be installed on all regulated wells by the end of the year 2004 except,
 - 4-4.1.1 Wells with a pumping capacity of less than 250 gallons per minute an alternative measuring device or method, approved by the district, with an accuracy of plus or minus 5% of the actual water flow may be used.
 - 4-4.1.2 Before any inactive wells are placed in service, a flow meter shall be installed, the district shall be notified of the well's status change, and the status of the well in the well registration records of the Department of Natural Resources shall be updated to reflect its active status. No such well shall be operated thereafter without a properly installed and operational flow meter.
- 4-4.2 All meters shall be tested for accuracy using recognized industry testing methods and certified by the manufacturer according to those standards. At any rate of flow within the normal flow limits, the meter, except as noted in rule 4.2.4, shall register not less than 98 percent or more than 102 percent of the water actually passing through the meter. All meters shall have a register or totalizer and shall read in U. S. gallons, acre-feet or acre-inches.
- 4-4.3 Installation - The operator shall, on forms provided by the district, report the location, by legal description, and certify the proper installation of flow meters. The District may, at a time of its own choosing, verify the location and proper installation of flow meters. The proper installation of a meter is such that it meets manufacturers specifications and/or more restrictive specifications developed by the District.

- 4-4.3.1 In no case may a meter be installed with less than 5 unobstructed pipe diameters upstream of the meter or less than 1 unobstructed pipe diameter downstream of the meter.
- 4-4.3.2 If the meter is installed downstream of a mainline check valve, there must be at least ten pipe diameters upstream of the meter or straightening vanes must be installed.
- 4-4.3.3 Meters must be located so as to prevent damage to the meter from excessive vibration.
- 4-4.3.4 Meters mounted in tubes or piping that can be easily removed or are routinely removed at the end of the irrigation season must be identified with the district. The date of removal and the location where the meter is stored off season must be provided to the district. In order to verify the meter reading, the district shall be notified before these meters are removed.
- 4-4.3.5 Meters must be installed so that the removal of the meter for service or maintenance can be performed with the use of normal tools and does not require excessive or unusual removal of hardware or other appurtenances.
- 4-4.3.6 The district may establish a method by which the installed meter is tagged, sealed, marked or otherwise protected from tampering.
- 4-4.4 Improperly Installed Meters – The installation of meters that do not meet manufacturers or district standards must be corrected. Failure to provide for proper installation will result in the loss of allocation for the next crop year.
- 4-4.5 Inoperative Meters – Landowners shall notify the district of an inoperative meter within one working day from the time the defect is noted. The district will repair or temporarily replace the inoperative meter and charge the well owner for the service. Failure to report inoperative meters will result in the loss of allocation for the next crop year.
- 4-4.6 Tampering with an installed flow meter. Following a hearing before the board, if it is found that tampering so as to affect the accuracy or true use of the meter has occurred, the district shall withhold the allocation for the next crop year and may prorate the allocation for the current year.
- 4-4.7 Service - It is the responsibility of the operator to provide for service and maintain the flow meter according to either the manufacturer's standards or more restrictive standards developed by the District. The operator may grant permission for this service to be provided by the district. A form, provided by the district, will authorize this service and the district may enter onto property to provide this service. This service will be provided in the off-season and will not interfere with the normal operation of the meter or the well.
- 4-4.8 The district may establish a spot check program to inspect the serviceability and verify use of a meter. The district may correct discrepancies noted at the time of the inspection. Discrepancies that require the repair of a meter may be performed by the district with the permission of the well owner.

RULE 4-5. REPORTS

- 4-5.1 Each operator of a regulated irrigation well shall report on forms provided by the district by November 15 each year, measurements that show or allow the district to determine the total water withdrawn from that well since the last report, the acres irrigated by that well during the preceding irrigation season
- 4-5.2 Each operator of a regulated well, other than an irrigation well, shall report, on forms provided by the district, by January 15th each year the total water withdrawn from that well during the preceding calendar year and the nature of the use of that water.
- 4-5.2 Failure to provide this report shall result in the loss of allocation for the next crop year.
- 4-5.3 In order to ensure compliance with the Republican River Compact Accounting procedures additional reports maybe required from ground water users.

RULE 4-6. CERTIFICATION

- 4-6.1 After June 1, 2004 for irrigation wells and December 1, 2004 for wells used for other than irrigation purposes, no regulated well shall be operated until its use is certified and approved by the board pursuant to these rules and regulations.

IRRIGATION USES

- 4-6.2 No later than January 1, 2004 each owner or operator of a regulated irrigation well shall certify (1) the well registration number for that well; (2) the number and location of all acres irrigated at least once by that well between January 1, 1993 and December 31, 2002; (3) the maximum number of acres irrigated by that well in any one year within that time period; (4) the number and location of all acres irrigated by that well in 2003. Such certification shall be on forms provided by the district and shall be accompanied by applicable records from the Farm Service Agency and/or the County Assessor and such other information as the owner or operator believes will be useful to the district in verifying the information certified.
- 4-6.3 The Board may take action to approve, modify and approve, or reject the certifications provided by owners and operators pursuant to section 4-6.2. The number and location of certified irrigated acres, which shall be approved for each such irrigation well, shall be determined at a public meeting of the board after consideration of the following:
- The information provided on and with the certification filed in accordance with section 4-6.2,
 - Any water use reports for that well filed in accordance with Rule 5,
 - U.S.D.A. Farm Service Agency records,

- County Assessor records,
 - Aerial photographs, and
 - Other information available to and deemed relevant by the board.
- 4-6.4 Only those acres that are actually capable of being supplied with ground water through irrigation works, mechanisms or facilities existing at the time of certification may be approved as certified acres by the board.
- 4-6.5 An irrigation well constructed before June 12, 2002 but not registered until after December 31, 2003, shall be approved for no more than (1) its history of use or (2) 160 certified irrigated acres.
- 4-6.6 Replacement irrigation wells constructed after May 19, 2003 shall be approved for no more certified acres than the certified use for the well being replaced.
- 4-6.7 After January 1, 2004, with the prior approval of the board, an irrigation well that was constructed prior to June 12, 2002 but has not yet been used for irrigation, is inactive or unused may be granted certified acres. That approval may be granted only upon the written request of the well owner and when the board has determined (1) that the well is in compliance with all applicable rules and regulations of the district (2) the location and number of acres proposed to be irrigated by that well in the future will be limited to no more than 160 acres, the acres that the well is capable of serving or the certified use being replaced. This certified use includes supplementing existing surface water irrigated acres or replacing the use of active wells on certified irrigated acres.
- 4-6.8 If certification is not filed pursuant to section 4-6.2 to 4-6.8 for an irrigation well constructed prior to January 1, 2004, the well shall be an "illegal well" as that term is defined in district Rule 2.
- 4-6.9 The board shall not certify any irrigated acres for an illegal well, as that term is defined in district Rule 2, and that well shall receive no future allocation of water until such certification has been filed and until the board has approved or modified and approved that certification. Certification of acres can be approved for any such well if and when the deficiency that causes that well to be an illegal well is corrected.
- 4-6.10 The number of acres that may be certified and approved for a well from which the water is applied to the crop through a sprinkler system may be up to 5% greater than the actual area planted to crops if there are non-cropped areas under the sprinkler system.

NON-IRRIGATION USES

- 4-6.11 No later than September 1, 2004, each owner or operator of a regulated well used for purposes other than irrigation shall certify (1) the well registration number for that well, (2) the nature and location of the use of the water withdrawn from that well, (3) the measured or estimated average annual quantity of water withdrawn from that well between

January 1, 1993 and December 31, 2002 and a description of the method used to determine that quantity, (4) the measured or estimated maximum quantity withdrawn from that well in any one year during that time period, (5) the measured or estimated quantity of water withdrawn from that well in 2003, (6) if the well was constructed before June 12, 2002 but has not yet been used for its intended purpose, the quantity of water proposed to be withdrawn from that well in the future, (7) if the well is a replacement well constructed after January 1, 1993, the information required by items (1) through (5) above for the well replaced, (8) if the well was constructed after June 12, 2002 the quantity withdrawn in 2003 and the quantity of water proposed to be withdrawn from that well in the future, and (9) if the owner or operator of the well desires that the annual quantity of use to be certified for that well be in excess of the quantity historically withdrawn by that well, the quantity proposed and an explanation why that quantity is necessary to accomplish the purpose for which the well is used. Such certification shall be on forms provided by the district and shall be accompanied by such information as the owner or operator believes will be useful to the district in verifying the information certified.

- 4-6.12 No later than November 1, 2004, the board shall take action to approve, modify and approve, or reject the certifications provided by the owners and operators of non-irrigation wells pursuant to section 4-6.11. Such action shall be taken after reviewing the information provided by the owner or operator of the well and any other information available to and deemed relevant by the board. The board's approval of the certification for such a well shall not, by itself, limit the quantity of water that can be withdrawn by that well in 2005 or any subsequent year. Any such limitations on the quantity that can be withdrawn annually from that well will be imposed through the board's allocation of water to that well pursuant to the district's rules and regulations. The board may use the information provided through such certification if and when it determines the amount to be allocated to that well.
- 4-6.13 Only those non-irrigation uses that are actually capable of being supplied with ground water through works, mechanisms or facilities existing at the time of certification may be approved as certified acres by the board.
- 4-6.14 If no certification is filed pursuant to section 4-6.11 for a regulated well constructed prior to September 1, 2004, and used for other than irrigation purposes, that well shall not be used and shall not receive an allocation from the district until such certification has been filed with the district and approved by the board.
- 4-6.15 Certification shall not be approved by the board for any regulated non-irrigation well, which is an "illegal well" as that term is defined by Rule 2 of the district's rules and regulations. The board can approve such certification if and when the deficiency that causes the well to be an illegal well is corrected.

- 4-6.16 Certification of use for an inactive or unused non-irrigation well will be approved only when that well is returned to active status and is in compliance with all applicable rules and regulations of the district.
- 4-6.17 The board shall review each certification for all uses no less often than every five years. Errors or inconsistencies discovered during that review shall be resolved to the satisfaction of the board before any new allocation is made to those uses. Following notice and a hearing the board may rescind any previously approved certification and any previously granted allocation to a well for which false or misleading information was used to obtain the certification required by section 4-6.2 or 4-6.11
- 4-6.18 Any change in farming operation or ownership that would result in a change in the number or location certified irrigated acres shall be reported to the district no later than December 31 of the calendar year in which the change occurred. Any change in use of a regulated well used for purposes other than irrigation that would result in a change in that well's certification shall be reported to the district no later than December 31 of the calendar year in which the change occurred. The board may reject such changes if it finds that such changes would cause an increase in Nebraska's consumptive use as calculated pursuant to the Republican River Compact or would have detrimental effects on other ground water users or on surface water appropriators.
- 4-6.19 Any ground water user aggrieved by a determination of the board regarding approval of certification of irrigated acres or of non-irrigation use may request a hearing before the board for the purpose of reconsidering that determination. Such request shall be filed on a form provided by the district within thirty (30) days of the board's action on the certification. Such hearing shall be a formal adjudicatory hearing and shall be conducted in accordance with the District's Rules and Regulations for the Enforcement of the Ground Water Management and Protection Act. The burden of proof shall be on the ground water user to document that the board's decision should be modified

Rule 4-7 ALLOCATION

- 4-7.1 The use of ground water from all regulated water wells shall be allocated by the District. Allocations will be set after considering: (1) the relationship between wells and surface waters and the impact of well usage on stream flow; (2) whether ground water levels are declining; (3) whether water quality problems resulting at least in part from leaching of nitrates or of other chemicals through the soil profile are being experienced; and (4) such other factors as the Board determines may be relevant to the appropriate amount of water to be withdrawn.
- 4-7.2 **INDUSTRIAL USES:** Regulated wells for industrial uses shall receive an allocation determined on a case-by-case basis, taking into account the history of use of the wells and the needs of the industry for which the well

is used. Additional allocations, up to 20% above established use, may be granted for expansion. The industry shall provide notice to the district of their need for additional allocation. Additional allocations as needed to comply with state or federal rules shall be added to the certified use without penalty to the industry.

- 4-7.3 New industrial uses shall be granted an allocation determined by their proposed need for a period of five years. Future allocations will be based on the high use over that 5-year introductory allocation. Additional allocations, up to 20% above established use, may be granted for expansion. The industry shall provide notice to the district of their need for additional allocation. Additional allocations as needed to comply with state or federal rules shall be added to the certified use without penalty to the industry. Allocations for industrial wells the use of which come under the authority of the Industrial Ground Water Regulatory Act, shall be determined by the amount permitted by that act.
- 4-7.4 MUNICIPAL USES - each municipality will be granted, without further need of application, an annual per capita allocation as shown in Table 1. This allocation is based on the land area of all communities in the District and the allocation for upland sub area irrigated acres. Municipal uses shall be reviewed each year and adjustments for growth shall be computed. Industrial uses within a municipality may be credited to the municipal allocation. These uses shall include, but not be limited to, manufacturing, commercial, power generation and maintenance of the turf of a golf course.
- 4-7.5 LIVESTOCK OPERATION WELLS will be allocated an amount equal to the maximum reasonable quantity of water for livestock and poultry as shown in Table 2.
- 4-7.6 Allocations for industrial uses, municipal uses and livestock operation uses shall renew yearly upon completion by the user and receipt by the district of the report required by Rule 4-5.
- 4-7.7 IRRIGATION USES
- 4-7.7.1 Base allocation – 13 inches per year
 - 4-7.7.2 Base allocation period – 3 years
 - 4-7.7.3 Base certification – 100 percent of certified irrigated acres
 - 4-7.7.4 Allocation year – October 1st to September 30th
 - 4-7.7.5 Provisions are established for sub areas
- 4-7.8 UPLAND SUB AREA - For the period commencing October 1, 2004 and ending September 30, 2007,
- 4-7.8.1 Allocation: 39 inches
 - 4-7.8.2 Maximum allocation year use: unrestricted except in Water Short Year
 - 4-7.8.3 Maximum allocation year use in Water Short Year: 13 inches
 - 4-7.8.4 Base certification reduced to 90% in water short year

- 4-7.9 **QUICK RESPONSE SUB AREA** - For the period commencing October 1, 2004 and ending September 30, 2007,
- 4-7.9.1 Allocation: 39 inches
 - 4-7.9.2 Maximum allocation year use: unrestricted except in Water Short Year
 - 4-7.9.3 Maximum allocation year use in Water Short Year: 13 inches
 - 4-7.9.4 Base certification reduced to 90% in water short year
 - 4-7.9.5 Base certification reduced to 75 % in consecutive water short years.
- 4-7.10 **PLATTE SUB AREA** - For the period commencing October 1, 2004 and ending September 30, 2007,
- 4-7.10.1 Allocation: unrestricted
 - 4-7.10.2 Allocation period:
 - 4-7.10.3 Base allocation:
 - 4-7.10.4 Base Certification 100 per cent of certified acres
 - 4-7.10.5 Maximum yearly use: unrestricted
- 4-7.11 **SUPPLEMENTAL WELLS** – For the period commencing October 1, 2004 and ending September 30, 2007,
- 4-7.11.1 Allocation: 39 inches minus the amount of water delivered or diverted.
 - 4-7.11.2 Maximum allocation year use in water short year: 13 inches
 - 4-7.11.3 Base certification: reduced according to well location in a water short year.
- 4-7.12 **PENALTY** - If at the end of any allocation period a ground water user has exceeded his or her allocation, the allocation for the next allocation period shall be reduced by the twice the number of acre inches by which said allocation was exceeded in the prior period.
- 4-7.13 **PENALTY** – Overuse of the base allocation during a water short year. The allocation for the next allocation period shall be reduced by twice the number of acre inches overused.
- 4-7.14 A ground water user must have a positive balance in his or her allocation before using water in any year of an allocation period. The district will notify landowners anytime the balance of their allocation goes below zero.
- 4-7.15 If at the end of the allocation period, a ground water user has consumed less than his or her allocation, he or she may carry the reserve or unused portion forward to the subsequent allocation period. However, the maximum reserve cannot exceed 6 inches. Reserve ground water must be used for the same certified acres for which the water was originally allocated.
- 4-7.16 Certified irrigated acres enrolled in the Federal Conservation Reserve Program (CRP) or similar programs shall not receive an allocation during

the term enrolled. Certified irrigated acres removed from the CRP shall be granted an allocation that is prorated for the remaining years of the allocation period.

- 4-7.17 Ground water wells used to supplement supplies from a surface water district or individual surface water appropriations shall be certified to the district before an allocation is granted.
- 4-7.18 On or before January 1, 2005, operators of all other regulated water wells not specifically addressed in the allocations established by the district shall apply for an allocation and such wells shall not be operated until the district has approved an allocation. The allocation for uses not specifically identified shall be equal to the allocation for irrigated uses as set by the sub area in which the well is located, or as later amended, for each 160 acres or 80 acre portion thereof under the control of the user. These acres cannot be certified for other uses or receive another allocation without the consent of the district.
- 4-7.17 The district may review any allocation, rotation or reduction control imposed in a management area and shall adjust allocations rotations or reductions to accommodate or otherwise reflect findings of such review consistent with the ground water management objectives. Such review shall consider more accurate data or information that was not available at the time of allocation rotation or reduction order, designation of a Water Short Year and such other factors as the district deems appropriate.
- 4-7.19 The district may institute formal adjudicatory proceedings or take any other legal action authorized or permitted by law to prohibit further withdrawal of ground water from any regulated well whenever a ground water user has exhausted his or her allocation during or before termination of any allocation period or has in any other way violated the amount, limitations, or conditions of his or her allocation or of other rules of the district. In the event of such action, no ground water may be withdrawn until the ground water user has adhered to district rules and regulations.

RULE 4-8 CRITICAL UNITS

- 4-8.1 SWANSON Critical Unit - That portion of the quick response sub area west of a north south line through the centerline of Trenton Dam. (see table 3-Legal Descriptions)
- 4-8.1.1 Action will not be allowed that would increase the certified acres in this unit.
- 4-8.1.2 New industrial uses may be limited.

RULE 4-9 REDUCTION OF IRRIGATED ACRES

- 4-9.1 No later than October 1, 2005 and October 1 of each following year the Department of Natural Resources will determine whether Water Short Year Administration will be necessary upstream from Harlan County Lake.
- 4-9.2 No later than November 1 after designation of a Water Short Year, the district will notify water users in the appropriate sub units of the requirement to reduce certified ground water irrigated acres by the amount identified in Rule 1-8 Water Short Year Administration.
- 4-9.3 Ground water users in the quick response sub area will be required to report, on forms provided by or approved by the district, their historical certified uses and their actual uses for the current year.
- 4-9.4 Certified acres requiring 10 acre-inches or less of ground water shall not be required to reduce according to rule 4-9.2.

RULE 4-10 LIMIT OR PREVENT THE EXPANSION OF NEW ACRES

- 4-10.1 Beginning on November 17, 2003 and except as provided by sections 4-6.8 and 4-10.2, no irrigation well may be used to irrigate any acre that was not irrigated with ground water at some time between January 1, 1993 and November 17, 2003.
- 4-10.2 With the prior approval of the board, acres not irrigated with groundwater between January 1, 1993 and November 17, 2003, may be irrigated only if the board determines that irrigation has been or will be discontinued on an equal or greater number of acres that were irrigated with ground water between January 1, 2000 and November 17, 2003. In deciding whether to approve any such proposed substitution of ground water irrigated acres, the board shall consider the extent to which, if at all, such substitution of acres would adversely affect other ground water users or surface water appropriators or would cause an increase in Nebraska's consumptive use as calculated pursuant to the Republican River Compact.

RULE 4-11 INCENTIVE PROGRAM

In addition to rules and regulations established by individual incentive programs, no certified acres may be enrolled in incentive programs that do not have a history of use in 4 of the last 6 years.

CHAPTER 5**INTEGRATED MANAGEMENT PLAN
Jointly Developed by the
DEPARTMENT OF NATURAL RESOURCES
And the
MIDDLE REPUBLICAN NATURAL RESOURCES DISTRICT****Integrated Management Plan Procedures**

If prior to July 16, 2004 the director has made a preliminary determination pursuant to subsection (2) of section 46-656.28 that there is reason to believe that the use of hydrologically connected ground water and surface water in a specific geographic area is contributing to or is in the reasonably foreseeable future likely to contribute to any conflict, dispute, or difficulty listed in such subsection and the preparation of a joint action plan pursuant to subsections (5) through (9) of such section has not been completed, the geographic area involved shall become subject to sections 46-713 to 46-719 of this act on the effective date of this act and the department need not evaluate such geographic area in its first annual report issued pursuant to section 46-713 of this act.

Section 46-713 (3) A basin shall be deemed fully appropriated if the department determines that then existing uses of hydrologically connected surface water and ground water in the basin will or in the reasonably foreseeable future cause reduction in the flow of a river or stream sufficient to cause noncompliance by Nebraska with an interstate compact or decree.

Section 46-715 (1) Whenever the department has made a final determination that a river basin is fully appropriated, the natural resources districts encompassing such river basin and the department shall jointly develop an integrated management plan for such river basin. The plan shall be completed, adopted and take effect within three years after such designation or final determination unless the department and the natural resources districts jointly agree to an extension of not more than two additional years.

(2) In developing an integrated management plan, the effects of existing and potential new water uses on existing surface water appropriators and ground water users shall be considered. An integrated management plan shall include the following: (a) clear goals and objectives with a purpose of sustaining a balance between water users and water supplies so that the economic viability, social and environmental health, safety, and welfare of the river basin can be achieved and maintained for both the near term and the long term; (b) a map clearly delineating the area subject to the integrated management plan; (c) one or more of the ground water controls authorized for adoption by natural resources districts pursuant to section 46-739 of this act; and (d) one or more of the surface water controls authorized for adoption by the department pursuant to section 47 of this act. The plan may also provide for utilization of any applicable incentive

programs authorized by law. Nothing in the integrated management plan for a fully appropriated river basin shall require a natural resources district to regulate ground water uses in place at the time of the department's preliminary determination that the river basin is fully appropriated, but a natural resources district may voluntarily adopt such regulations.

(3) The ground water and surface water controls proposed for adoption in the integrated management plan pursuant to subsection (1) of the section shall, when considered together and with any applicable incentive programs, (a) be consistent with the goals and objectives of the plan, (b) be sufficient to ensure that the state will remain in compliance with applicable state and federal laws and with any applicable interstate water compact or decree, and (c) protect the ground water users whose water wells are dependent on recharge from the river or stream from streamflow depletion caused by surface water uses and ground water uses begun after the date the river basin was preliminarily determined to be fully appropriated in accordance with section 46-713.

Definitions

Republican River Compact (RRC, Compact)

The Republican River Compact entered into by the states of Colorado, Kansas and Nebraska with Congressional approval governs the use of the waters of the Republican River Basin.

Republican River Compact Administration (RRCA)

The administrative body composed of the State officials identified in Article IX of the Compact.

Final Settlement Stipulation (FSS)

Approved by the Supreme Court on May 19, 2003, the Final Settlement Stipulation resolves all pending litigation and disputes between the states that exist as of December 15, 2002 and provides for the dismissal with prejudice of the original action. The States have also agreed to methods for administering the Compact in the future.

GOALS AND OBJECTIVES

The goal of this integrated management plan shall be to assist the state of Nebraska, in cooperation with the other basin Natural Resources Districts, in maintaining compliance with the Republican River Compact.

Chapters 1 through 4 shall constitute the district portion of the Integrated Management Plan. Along with the compliance provisions identified in chapter 5, these rules and regulations will be the integrated management plan to administer, regulate and manage the use of hydrologically connected ground water and surface water resources in the Middle Republican Natural Resources District portion of the Republican River Basin to maintain the total Computed

Beneficial Consumptive Use in Nebraska within the amount of Computed Water Supply allocated to Nebraska. Chapters 1 through 4 are also the rules and regulations that apply to the portions of the Middle Republican NRD that are not part of the Republican River Basin and may not be bound by settlement conditions.

Monitoring Program

The basin NRDs and the Department will utilize the RRCA Ground water Model and any other relevant analytical tools on an ongoing basis to manage and administer hydrologically connected surface water and ground water in the Republican River Basin.

In accordance with the accounting procedures and reporting requirements set forth by the RRCA and the Final Settlement Stipulation, and in cooperation with surface water appropriators, any surface water project sponsor and the DNR a program to monitor the use of hydrologically connected ground water and surface water in the area which is contributing to or is likely to contribute to conflicts between ground water users and surface water appropriators, to disputes over interstate compacts or decrees, or to difficulties fulfilling the provisions of other formal state contracts or agreements is hereby established. The procedures to be followed include but are not limited to FSS, Appendix C, Republican River Compact Administration, Accounting Procedures and Reporting Requirements, December 15, 2002

V. Annual Data/ Information Requirements, Reporting and Verification

The following information for the previous calendar year shall be reported to the members of the RRCA Engineering Committee by April 15th of each year, unless otherwise specified. All information shall be provided in electronic format, if available. Each state agrees to provide all information from their respective State that is needed for the Republican River Groundwater Model and RRCA Accounting Procedures and Reporting Requirements, including but not limited to the following:

A. Annual Reporting

2. Groundwater pumping and irrigated acreage: each state will tabulate and provide all groundwater well pumping estimates that are required for the RRCA Groundwater Model to the other states.

Nebraska – will provide an annual tabulation through the representative Natural Resources District in Nebraska that includes: the well registration number or other ID number; groundwater pumping determined by a meter on each well (or group of wells in a manifold system) or by reported hours of use and rate; wells will be identified by; location; system type (gravity,

sprinkler, LEPA, drip, etc.); and irrigated acreage. Crop distribution will be provided on a county basis.

MAP - see map 1.

GROUND WATERS CONTROLS – Chapters 1 through 4

SURFACE WATER CONTROLS - Department of Natural Resources

1. The authority for the surface water component of integrated management plans after July 16, 2004 is section 56 of LB962. That section is on pages 103 and 104 of the final reading version of the bill. Metering of all surface water diversions at the point of diversion from the stream is now required and will continue to be required. For surface water canals that are not part of a Bureau of Reclamation project, farm turnouts also will be required to be metered by the start of the 2005 irrigation season. All meters shall have a totalizer and shall meet Department standards for installation, accuracy and maintenance. All appropriators will be monitored closely to ensure that neither the rate of diversion nor the annual amount diverted exceeds that allowed by the applicable permit or by statute.
2. The Department's moratorium on the issuance of new surface water permits will be continued. Exceptions may be granted to allow issuance of permits for existing reservoirs that currently do not now have such permits. Such reservoirs may be identified through the settlement-required inventory of over 15 acre feet reservoirs or otherwise.
3. All proposed transfers of surface water rights shall be subject to the revised criteria for such transfers as found in LB962. No transfer will be allowed if it would jeopardize the state's compliance with the compact (LB962, page 43, lines 11 to 15). Also, transfers that propose to "spread" the allowable diversion to a greater number of acres than those historically irrigated through use of the right being transferred will not be permitted unless it is determined that the proposed spread "will not diminish the water supply available for or otherwise adversely affect any other water appropriator" (LB962, page 36, lines 21 and 22 and page 41, lines 21 to 28).
4. The Department completed the adjudication process for the individual appropriators in the Republican River Basin in 2004. The results of that adjudication provide up-to-date records of the number and location of acres irrigated with surface water by such appropriators. Those records will be used by the Department to monitor use of surface water and to make sure that unauthorized irrigation is not occurring. The Department also will be proactive in initiating subsequent adjudications whenever information available to the department indicates that there are water rights that are not being used and for which no known sufficient cause for such non use exists.
5. At this time, due to the already limited availability of surface water supplies, the Department will not require that surface water appropriators apply or

utilize additional conservation measures or that they be subject to other new restrictions on surface water use. However, the Department reserves the right to request, in the future, that the integrated management plan be modified to require any such additional measures. In the event such a request is made, the department will "allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days, unless extended by the department, to identify the conservation measures to be applied or utilized, to develop a schedule for such application and utilization, and to comment on any other proposed restrictions." (LB962, page 103, line 25 to page 104, line 3).

Middle Republican NRD
August 2004

Community	2000		Area Sq. mi. Factor	Gallons/Person/Day				mi. sq. factor	
	Census	Sq. mi.		15"	14"	13"	12"	mi. sq.	factor
Bartley	355	0.7	3	1509	1408	1308	1207	0.1	1
Culberston	594	0.9	4	1202	1122	1042	962	0.26	2
Curtis	832	1.3	6	1288	1202	1116	1030	0.51	3
Danbury	127	0.9	4	5624	5249	4874	4499	0.76	4
Hayes Center	240	0.7	3	2232	2083	1934	1785	1.01	5
Indianola	642	1.2	5	1391	1298	1205	1112	1.26	6
Lebanon	70	0.2	1	2551	2381	2211	2041	1.51	7
Maywood	331	0.5	2	1079	1007	935	863	1.76	8
McCook	7994	5.3	22	491	459	426	393	2.01	9
Moorefield	52	0.2	1	3434	3205	2976	2747	2.26	10
Palisade	386	0.4	2	925	863	802	740	2.51	11
Stockville	36	0.3	2	9919	9258	8597	7935	2.76	12
Stratton	396	0.4	2	902	842	782	721	3.01	13
Trenton	507	0.6	3	1056	986	916	845	3.26	14
Wallace	329	0.7	3	1628	1520	1411	1302	3.51	15
								3.76	16
								4.01	17
Average Town	859	0.95	4	831	776	720	665	4.26	18
Total Town	12891	14.3	58	803	750	696	643	4.51	19
								4.76	20
								5.01	21
Allocation	gal/yr/160 acres							5.26	22
								5.51	23
								5.76	24
15"	65170000								
14"	60825333								
13"	56480667								
12"	52136000								

Table 1.




Maximum Reasonable Quantity of Water for Livestock and Poultry

	Drinking water gallon/head/day	Servicing/Flushing gallons/head/day	Quantity/1000 head cbc=1000	
Cattle, beef	15	0 open lot	17	ac ft
	15	100 cbc	129	ac ft
Cattle, Dairy	35	100 cbc	151	ac ft
Swine				
Nursery	1	4 cbc	6	ac ft
Finishing	5	15 cbc	22	ac ft
Sow&Litter	8	35 cbc	48	ac ft
Gestating Sow	6	25 cbc	35	ac ft
Sheep	2	0 open lot	2.2	ac ft
	2	15 cbc	19	ac ft
Horses	12	0 open lot	13	ac ft
	12	100 cbc	125	ac ft
Poultry/100				
Chickens	9	200 cbc	2.3	ac ft
Turkeys	30	400 cbc	4.8	ac ft

Table 2

Map 1

Legend

-  MRNRD_Boundary
-  MRNRD Quick Response
-  Platte_Area

