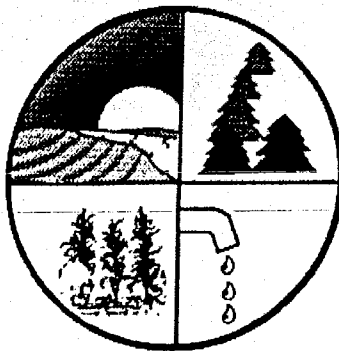

Rules and Regulations

Ground Water Management Area
Middle Republican
Natural Resources District

Effective Date: July 1, 1998
Revised: November 17, 2003



AUTHORITY - These rules and regulations are adopted pursuant to the authority granted in the Nebraska Ground Water Management and Protection Act, Sections 46-656.01 to 46-656.67.

PURPOSE - The purposes of the management area herein designated are (1) to maintain, in accordance with the districts ground water management plan, a ground water reservoir life of at least seventy-five years (75); (2) protect ground water quality; and (3) allow for the integrated management of hydrologically connected ground water and surface water.

RULE 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 2. DEFINITIONS

- 2.1 Act: The Nebraska Ground Water Management and Protection Act.
- 2.2 Board: The elected board of directors of the Middle Republican Natural Resources District.
- 2.3 Certified Irrigated Acre: Any acre irrigated with ground water for which certification has been approved by the board pursuant to Rule 8 of the district's rules and regulations.
- 2.4 Certified Non-Irrigation Use: Any use of ground water withdrawn from a regulated well other than an irrigation well and for which certification of the nature of use, location and of the quantity of ground water used has been approved by the board pursuant to Rule 8 of the district's rules and regulations.
- 2.5 Dewatering Well: Shall mean a water well constructed for the purpose of lowering the ground water surface elevation.
- 2.6 District: The Middle Republican Natural Resources District.
- 2.7 Flow meter: A device, approved by the district, to measure the quantity of ground water pumped, withdrawn, or taken from a water well.
- 2.8 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.
- 2.9 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 the 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, or (e) any water well constructed or operated in violation of these or other rules and regulations of the District.
- 2.10 Inactive Status Well: Shall mean a water well that is in a good state of repair and for which the owner has provided evidence of intent for future use by maintaining the water well in a manner, which meets the following requirements, (1) the water well does not allow impairment of the water quality in the water well or of the ground water encountered by the water well; (2) the top of the water well or water well casing has a watertight welded or threaded cover or some other watertight means to prevent its removal with out the use of equipment or tools to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes or contaminants into the water well; (3) the water well is marked so as to be easily visible and identified as a water well and the area surrounding the water well is kept clear of brush, debris, and waste material; and status change is filed with the Nebraska Department of Water Resources.
- 2.11 Late Permit: Shall mean a permit applied for after construction has commenced on a water well.
- 2.12 Livestock Operation Well: A regulated water well providing for the watering of animals in a livestock operation or confined livestock operation as defined in Chapter 1 of Title 130, Nebraska Department of Environmental Quality (NDEQ), and requiring a permit from NDEQ to operate.
- 2.13 Livestock Well: A water well providing for the water 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.
- 2.14 Operator: The person who controls the day-to-day operation of the water well.
- 2.15 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.
- 2.16 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.
- 2.17 Regulated Well: A water well designed and constructed to pump more than fifty (50) gallons per minute (gpm). A series of water wells, with a combined discharge of more than fifty (50) gpm, 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.
- 2.18 Replacement Well: A water well which (a) replaces a previously abandoned (decommissioned) water well within three years of the last operation of the abandoned (decommissioned) 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.
- 2.19 Test Hole: Shall mean a hole designed solely for the purpose of obtaining information on hydrogeologic conditions.

- 2.20 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.
- 2.21 Unused / Seldom Used Well: A water well that has not been placed in inactive status but is used less than one year in three.
- 2.22 Waiver: An agreement between a water well owner or operator and the district that will provide for relief from the enforcement of a rule or rules of the district.
- 2.23 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. A water well shall 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.

RULE 3. WELL SPACING

- 3.1 No regulated well shall be constructed upon any land in this district within one thousand three hundred and twenty (1320) feet of any registered regulated well, regardless of ownership except;
- 3.1.1 Any irrigation water well that replaces an irrigation water well drilled prior to September 20th, 1957, and which is less than 600 feet from a registered irrigation well shall be drilled within fifty feet of the old water well.
- 3.1.2 After July 1st 1998, a replacement well may be constructed at less than one thousand three hundred and twenty (1320) feet from another registered water well, if it is constructed within one hundred (100) feet of the water well it replaces and was, when constructed, in compliance with ~~all applicable laws, rules and regulations.~~
- 3.2 The well spacing required by Rule 3.1 shall apply to an unregistered water well for a period of only 30 days following completion of such water well.

RULE 4. FLOW METERS

- 4.1 Flow meters meeting accuracy specifications established in Rule 4.3 shall be installed on all regulated wells in accordance with the schedule established in Rule 4.2.
- 4.2 The flow meter placement schedule is as follows:
- 4.2.1 For regulated wells in the alluvial valley of the Republican River Basin, as identified by the Nebraska Department of Water Resources, flow meters shall be installed by December 31st of the year specified below.
- 1998 - alluvial wells in sections 1 through 12
- 1999 - alluvial wells in sections 13 through 23
- 2000 - alluvial wells in sections 24 through 36
- 4.2.2 For regulated wells, other than those in Rule 4.2.1, flow meters shall be installed by December 31 of the year specified below.
- 2001 - all regulated wells in the NE quarter of the section

- 2002 - all regulated wells in the SE quarter of the section
- 2003 - all regulated wells in the SW quarter of the section
- 2004 - all regulated wells in the NW quarter of the section
- 4.2.3 For all new or replacement regulated wells constructed after July 1, 1999, flow meters shall be installed prior to use of the well.
- 4.2.4 For unused/seldom used wells or wells with a pumping capacity of less than 250 gpm a measuring device or method, approved by the district, with an accuracy of plus or minus 5% of the actual water flow may be used.
- 4.2.5 For inactive status wells a flow meter shall be installed prior to placing the well into active status.
- 4.3 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% or more than 102% 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 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.
- 4.5 Service - It is the responsibility of the operator to service and maintain the flow meter according to either the manufacturers standards or standards developed by the District.

RULE 5. REPORTS

- 5.1 Beginning with the year after meter installation, as required by Rule 4, all operators of regulated irrigation wells 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 and the acres irrigated by that well during the preceding irrigation season.
- 5.2 Each operator of a regulated well, other than an irrigation well, shall report, on forms provided by the district, by January 15 each year the total water withdrawn from that well during the preceding calendar year.

RULE 6. WELL PERMITS

- 6.1 Except as provided in Rule 6.2 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.
- 6.2 Exceptions – No permit shall be required for:
 - 6.2.1 Test holes,
 - 6.2.2 Dewatering wells with an intended use of 90 days or less,

- 6.2.3 A single water well designed and constructed to pump 50 gpm or less.
- 6.3 A permit is required for a water well designed and constructed to pump 50 gpm 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 water well and the combined capacity shall be used as the rated capacity.
- 6.4 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 is now required.
- 6.5 The application shall be accompanied by a fifty dollar (\$50.00) filing fee payable to the district and shall contain:
- 6.5.1 The name and post office address of the well owner,
 - 6.5.2 The nature of the proposed use,
 - 6.5.3 The intended location of the proposed water well or other means of obtaining ground water,
 - 6.5.4 The intended size, type and description of the proposed water well and estimated depth,
 - 6.5.5 The estimated capacity in gpm (gallons per minute),
 - 6.5.6 The acreage and location by legal description of the intended use of the well water,
 - 6.5.7 A description of the proposed use of the well water,
 - 6.5.8 The registration number of the well being replaced, if applicable,
 - 6.5.9 Such other information as the district may require.
- 6.6 Any person who has failed or in the future fails to obtain a permit before construction is started shall make an application for a late permit on forms provided by the district.
- ~~6.7 The application for a late permit shall be accompanied by a two hundred fifty dollar (\$250.00) fee payable to the district and shall contain the same information required in Rule 6.5.~~
- 6.8 The application for a 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) in the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit.
- 6.9 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.
- 6.10 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 7. TRANSFERS

- 7.1 Transfers out of the district – Any person who withdraws ground water from aquifers located within the district may transfer the use of the ground water out of the district if 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.
- 7.2 Transfers into the district – Any person who withdraws ground water from aquifers located outside the district may transfer the use of the ground water into the district if 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 the district. Withdrawal of such water shall be consistent with all rules and regulations of the natural resources district or other jurisdictional entity in which it is withdrawn.
- 7.3 If no rules and regulations are established in the district of use then the rules and regulations of this district shall apply.
- 7.4 All requests for a transfer 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 should be present at the hearing.
- 7.5 The Board, at its discretion, may designate conditions under which specific requests for a transfer may be approved by methods other than a formal adjudicatory hearing.

RULE 8. CERTIFICATION

- 8.1 Beginning June 1, 2004 for irrigation wells and December 1, 2004 for wells used for other than irrigation purposes, no regulated well shall be operated unless its use is certified and approved by the board pursuant to these rules and regulations and unless that use is consistent with the board's action relative to that certification. For regulated irrigation wells, the initial certification and approval shall be in accordance with sections 8.2 to 8.10 of these rules. For all other regulated wells, certification and approval shall be in accordance with sections 8.11 to 8.17.
- 8.2 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.

- 8.3 No later than May 15, 2004, the Board shall take action to approve, modify and approve, or reject the certifications provided by owners and operators pursuant to section 8.2. 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 8.2,
 - 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.
- 8.4 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.
- 8.5 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.
- 8.6 Replacement irrigation wells constructed after May 19, 2003 shall be approved for no more than the historic use between January 1, 1993 and December 31, 2002.
- 8.7 If no certification is filed pursuant to section 8.2 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.
- 8.8 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 and 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 conformance 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.
- 8.9 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.
- 8.10 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.
- 8.11 No later than September 1, 2004, each owner or operator of a regulated well used for other than irrigation purposes 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.

- 8.12 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 8.11. 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.~~
- 8.13 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.
- 8.14 If no certification is filed pursuant to section 8.11 for a regulated well used for other than irrigation purposes and constructed prior to September 1, 2004, that well shall not be used and shall not receive any allocation from the board, until such certification has been filed with the district and approved by the board.
- 8.15 No certification shall 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.
- 8.16 Certification of the use of 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.
- 8.17 The board shall review each irrigated acre certification and each non-irrigation certification 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 for irrigation or other use as applicable. The board may rescind any previously approved certification and any previously granted allocation to a well for which it is determined that false or misleading information was contained in the certification required by section 8.2 or 8.11
- 8.18 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 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.
- 8.19 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 9. LIMIT OR PREVENT THE EXPANSION OF NEW ACRES

- ~~9.1 Beginning on November 17, 2003 and except as provided by sections 8.8 and 9.2,~~
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.
- 9.2 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 10. VARIANCES

- 10.1 The Board may grant variances from the strict application of these rules and regulations upon good cause shown.

- 10.2 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 should be present at the hearing.
- 10.3 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.

RULE 11. 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 12. 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 shall be subject to a civil penalty assessed pursuant to section 46-656.10, Reissue Revised Statutes of Nebraska as amended by LB30, Ninety-Eighth Legislature, First Session (2003).

RULE 13. WAIVER

- 13.1 Waivers that provide for relief from the enforcement of specific rules may be approved by the Board. Waivers are site specific and do not grant a general exception of the rules.
- 13.2 Waiver forms shall identify the specific rule to be excused and set the conditions agreed to by the Board and the well owner.

APPENDIX A. MAPS

1. Geographic Boundary

Appendix A

Middle Republican NRD District Boundary

