

DATE: February 13, 2007
TO: Holdrege Daily Citizen
FROM: Carie B. Lynch
Administrative Secretary
RE: LEGAL NOTICE - Please publish:
February 14, 2007
February 21, 2007
February 28, 2007

*DNR didn't
comment at
hearing as
required by law.*

Please forward Proof of Publication for the following
Notice of Hearing:

April 10 ~~March 13~~, 2007 at 1:30 PM in the NRD Board Room at the
Phelps County Ag Center in Holdrege, Nebraska. This
hearing is being held to receive testimony from the public
on revisions to the NRD Groundwater Management Rules and
Regulations. At said time and place, testimony will be
received from all interested persons. Individuals with
disabilities may request auxiliary aids and service
necessary for participation by contacting the Tri-Basin
NRD at (308) 995-6688. An agenda for the hearing is kept
continually current and is available for public inspection
at the offices of Tri-Basin Natural Resources District at
1308 Second Street, Holdrege, Nebraska.

Following is the text of the proposed revised rules,
accompanied by text describing the nature of the rule
changes:

Section 1 Definitions-Add definitions for baseline average
consumptive irrigation water use, historic consumptive
irrigation water use, conditional replacement well and
alternate use well and revise the definition of
replacement well.

NEW DEFINITION 1.4 Alternate Use Well- a conditional
replacement well that is intended to provide water for a
use other than irrigation of crops.

**NEW DEFINITION 1.5 Baseline Average Consumptive Irrigation
Water Use**- the average amount of irrigation water
consumed on a per-acre basis by a conventionally-tilled,
fully-irrigated corn crop that is raised to maturity.

This amount is determined to be nine inches per acre in Kearney County, ten inches per acre in Phelps County and eleven inches per acre in Gosper County.

NEW DEFINITION 1.12 Conditional Replacement Well- A water well may be considered by the NRD to be a conditional replacement well if it replaces or supplements existing groundwater wells or surface water rights on NRD-certified irrigated lands. The owner of a conditional replacement well permitted by the NRD may be subject to limitations, regulations and operational conditions regarding use of that well that are different from limitations, regulations and conditions of operation imposed by the district on owners of other wells within the district. In the absence of any other limitations, regulations or conditions of operation, the beneficial consumptive use of water resulting from operation of a conditional replacement well shall be no greater than the historic consumptive use of water from the well or surface water use which it is to replace or supplement.

NEW DEFINITION 1.24 Historic Average Consumptive

Irrigation Water Use- the baseline average consumptive irrigation water use multiplied by the number of certified irrigated acres in a parcel of land.

REVISED DEFINITION 1.43 Replacement well- the second definition under the term "replacement well" will be struck and that definition will be included under the definition of "conditional replacement well."

Section 7 Groundwater Transfers- Revise Groundwater Transfer rules to require offsets for out-of-district groundwater transfers.

NEW RULE 7.2.2 Anyone seeking a permit to transfer groundwater out of the district will be required to offset water withdrawals associated with the permit by ceasing existing groundwater or surface water uses in the same river basin in which the proposed withdrawal will occur in an amount equivalent to the annual volume of the proposed withdrawal. The applicant must provide information to the district specifying how, when and where the new depletion to groundwater supplies proposed in the permit application will be offset. The board reserves the right to place additional restrictions on the timing, rate and volume of groundwater withdrawals, as well as the timing and rate of discharges of pumped water to streams or other water bodies within the NRD.

Section 8 Quantity Groundwater Management Rules and Regulations- Revise Quantity Groundwater Management Area Rules and Regulations (Section 8) groundwater quantity

*What happens to the water?
As contemplated as interbasin transfer
has to result in a net reduction of CU*

*DNR comment
this could be increased up
by some other appropriate
could use*

Mgt. phase 2 trigger, add rules to prevent groundwater transfers out of a phase 2 Quantity Groundwater Management Area and add rules related to permitting of alternate use wells and high volume groundwater wells.

Delete rule 8.2.2, which requires groundwater levels to drop to less than 90% of 1981-85 saturated thickness in "non-groundwater mound" areas and revise rule 8.2.2.1, which triggers phase 2 management at 100% of 1981-85 levels in groundwater mound-affected areas, to apply to the entire district. The NRD would use the COHYST model to estimate 1981-85 groundwater levels in every section within the NRD. Current and historical groundwater data could then be compared to the estimated historic levels. If an area is designated as Phase 2 for groundwater quantity management purposes, the NRD will intensify groundwater level observation efforts in the designated area.

REVISED RULE 8.2.2 (formerly rule 8.2.2.1) In areas where groundwater level data indicate that groundwater levels during the period 1981-85 were at least ten feet above previous historic levels, phase II groundwater quantity management will be initiated. Phase II rules and regulations will be required to arrest groundwater declines in any section within the district where the NRD Board of Directors determine that a three-year rolling average of spring groundwater levels have declined to the point that they are at 100% of the thickness of the saturated zone when compared to 1981-85 average groundwater reference levels, if the average water table level is greater than forty feet below the land surface.

NEW RULE 8.2.2.1-Upon designation of any section or sections of the district as a Phase 2 Quantity Groundwater Management Area, Tri-Basin NRD will locate at least one dedicated observation well in the township in which the designated section or sections are located. The NRD will also seek to identify wells that have groundwater level measurement data from the period 1981-85 and ask landowners for permission to periodically measure these wells. Data derived from these additional measurements will be reviewed by the NRD board of directors when they consider the groundwater management status of sections previously designated as Phase 2 for groundwater quantity management.

REVISED RULE 8.3.1 (new language is underlined). Landowners must obtain well construction permits from Tri-

Basin NRD before drilling new wells, conditional replacement wells, alternate use wells or replacement wells which have a capacity greater than 50 g.p.m. Landowners shall specify the intended pumping capacity of new wells when they apply for a well construction permit. The NRD Board of Directors may determine that it is necessary to place additional conditions and constraints on the operation of wells permitted by the district. Landowners must agree to all lawful terms, conditions and constraints on the operation of a well authorized by the NRD Board of Directors at the time a permit is requested before the NRD will grant a well construction permit.

NEW PROPOSED RULE 8.3.1.1 Any water user who wishes to construct a new well, replace an existing well or use an existing well or series of interconnected wells with the intention of removing water from the district or consuming more than 300 acre-feet of groundwater within a single parcel of land containing 320 acres or less for purposes other than irrigation of crops must apply to the NRD for a high volume groundwater consumption permit. A high volume groundwater consumption permit must be reviewed by the NRD board of directors, who may place conditions and limitations upon the operation of such wells they determine to be necessary to protect groundwater supplies, prevent groundwater runoff problems or prevent depletions to streamflows. Such conditions and limitations may include, but are not limited to: a) requirements to offset depletions to streamflows, b) limitations on the rate or volume of groundwater pumping, c) reporting pumping to the NRD on a periodic basis, d) allowing NRD personnel periodic access to the well site for inspection of the well and flowmeter, e) limitations on the location, rate and manner of discharge of groundwater after use in an industrial facility and f) constructing and maintaining groundwater observation wells in the vicinity of the production well, at locations to be determined by the NRD.

NEW RULE 8.3.5: Groundwater consumed by a facility or process using an alternate use well must be offset by discontinuing or replacing an equivalent amount of existing water uses in the basin and stream reach in which the facility is located. The amount of water consumed by existing irrigation water uses can be calculated by multiplying the per-acre baseline consumptive irrigation water use by the number of NRD-certified irrigated acres in a parcel.

REVISED RULE 8.4.2: Landowners shall not develop any new irrigated acres within a Phase II area or transfer

groundwater out of a Phase II area after the effective date of Phase II area designation. Landowners will be allowed to transfer irrigated acres within or out of a Phase II area as described in Section 10 "Irrigated Land Certification". The NRD board may allow groundwater transfers within a phase II management area, as described in Section 7, "Groundwater Transfers".

Section 10 Irrigated Land Certification- Revise Section 10 to place limits on certified irrigated acres transfers into the NRD from other NRDs.

Rule 10.3 currently requires that the NRD board of directors approve certified acre transfers, except in specific circumstances, which are defined in sub-sections to that rule. It will be revised (new word underlined) and sub-section 10.3.7 will be added:

REVISED RULE 10.3 Landowners may request that the NRD Board of Directors authorize changes in the location or number of certified irrigated acres. The NRD board of directors will reject proposals to re-locate certified irrigated acres if one or more of the following circumstances exist:

10.3.1 A landowner request would result in re-locating certified irrigated acres from a Phase I Quantity GMA area to a Phase II or Phase III Quantity GMA area or from an area not subject to integrated management rules to an area within the Integrated GMA.

10.3.2 A landowner request would result in re-locating irrigated acres from a portion of the district that is not subject to Integrated Water Management Area rules to any section within the district that is subject to Integrated Water Management Area Rules.

10.3.3 A landowner request would result in re-locating certified irrigated acres from one river basin to another river basin.

10.3.4 A landowner request would add irrigated acres in an Integrated Management Area or a Phase II or Phase III Groundwater Quantity Management Area without changing the irrigated land use on the tract within which the certified acres were originally located to a non-irrigated land use.

10.3.5 A landowner fails to report changes in land use on all tracts that are involved in re-location of irrigated acres to the County Assessor.

10.3.6 A citizen or NRD staff provide information to the NRD Board of Directors that lead the board of directors to determine that relocating irrigated acres into a particular area is likely to deplete groundwater or

surface water in excess of the maximum allowable depletion or is otherwise contrary to NRD rules, state or federal laws or the public good.

NEW PROPOSED RULE 10.3.7 *A request to re-locate certified irrigated acres would result in re-locating irrigated acres from another NRD into this NRD, unless the NRD Board of Directors determine that such a request would not lead to any of the circumstances described in rules 10.3.1 through 10.3.6.*

Copies of the current and proposed rules and regulations are available during normal business hours at the Tri-Basin NRD Office, 1308 2nd St., Holdrege, Nebraska. District residents and others can also read the complete text of the proposed rules on the Tri-Basin NRD web site, www.tribasinnr.org, or receive a copy by mail by calling the NRD toll-free number, (877) 995-6688.