

Tri-Basin NRD  
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*Natural Resources District*

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## Memo

**To:** Ann Diers, NDNR  
Don Kraus, CNPPID  
Tina Kurtz, NDNR  
Dave Miesbach, NDEQ

**From:** John Thorburn, General Manager

**CC:** TBNRD Directors  
Elwood, Holdrege, Minden USDA-NRCS Field Offices  
Don Blankenau, Jeff Cox TBNRD legal counsels  
Sen. Joel Johnson  
Sen. Ed Schrock

**Date:** 10/12/2005

**Re:** Proposed changes to Tri-Basin NRD Groundwater Management rules

RECEIVED

OCT 13 2005

DEPARTMENT OF  
NATURAL RESOURCES

The Tri-Basin NRD Board of Directors have proposed revisions to our groundwater management rules. This package of rules revisions is intended to improve the efficiency of administrative processes associated with the NRD's integrated management area and Phase III groundwater quality management area.

The most substantive change in the rules is a change to the trigger level for phase II groundwater quantity management (rule 8.2.2). The current trigger requires that phase II groundwater quantity management will be initiated if a three-year average of spring groundwater levels fall below 90% of 1981-85 average water levels. The proposed rule raises that trigger level to 100% of 1981-85 average levels in areas where the 1981-85 average levels were at least ten feet above pre-development groundwater levels (groundwater mound).

The board of directors will receive public comments on the proposed rules revisions at a public hearing on November 8, 2005. Anyone wishing to submit written testimony is urged to do so no later than November 2, so copies can be sent to NRD directors before the hearing.

Feel free to contact me if you have questions, or if you need additional information.  
Thank you.

Enc.: TBNRD Rules and Regulations

DNR 005685

DATE: October 12, 2005  
TO: Holdrege Daily Citizen  
FROM: Carie B. Lynch  
Administrative Secretary  
RE: LEGAL NOTICE - Please publish:  
October 13, 2005  
October 20, 2005  
October 27, 2005

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

A public hearing will be held by the Tri-Basin Natural Resources District (NRD) Board of Directors on November 8, 2005 at 7:30 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, (changes and additions to the existing rules and regulations, the most recent version of which became effective February 14, 2005, are underlined and italicized) accompanied by "bulleted" text describing the nature of the rule changes:

**Section 1- Definitions**

- Revise definition of "permit" to include certified acre transfer permits and commingled water transfer permits and to allow conditions to be placed on permits.

1.35 Permit shall mean:

1.35.1 the conditional authorization given by Tri-Basin Natural Resources District to any person for construction of wells capable of pumping more than 50 gallons per minute as defined in Neb. Rev. Stat. §46-656.29.

1.35.2 the conditional authorization given by Tri-Basin Natural Resources District to any person who desires to construct a new well, use or modify an existing well or wells for the purpose of enabling said well or wells to pump water at a rate of more than fifty gallons per minute off of overlying land.

1.35.3 the conditional authorization given by Tri-Basin Natural Resources District to any person for transferral of certified irrigated land from one parcel to another.

- Add definition for integrated management plan  
1.25 Integrated Management Plan shall mean a plan to manage interconnected groundwater and surface water resources, as required by state law 46-715 (2), RRS 1943. The goals and objectives of such a plan will be jointly developed and agreed upon by Tri-Basin Natural Resources District and the NE Department of Natural Resources, after consultation and collaboration with affected stakeholders.

Section 3- Groundwater Management Area Regulations

- Delete well permit language in 3.3.4 and revise language in 8.3.1.
- Revise rules in section 3.5 to allow for single-pass application of commercial nitrogen fertilizer and application of nitrogen incidental to application of other nutrients.

3.5 Phase III Rules and Regulations - The following regulations shall apply to all landowners and operators of irrigated farm land in Groundwater Management Areas with a Phase area designation of Phase III:

3.5.1 Continue controls set forth in subsections 3.3 through 3.4 inclusive, as required in Phase I and Phase II Areas, except to the extent that they are superseded by controls set forth in this section.

3.5.2 Application of commercial nitrogen fertilizer for spring-planted crops shall be prohibited on all soils between September 1 and March 1 of the following year, except to the extent that less than

60 pounds per acre of actual N is applied as an ingredient in a fertilizer formulation primarily composed of other nutrients.

(Rule 3.5.3 and sub-sections 3.5.3.1, 3.5.3.2 and 3.5.3.3 shall be deleted from the rules and regulations).

- Revise phase III designation in rule 3.1.3 to allow only those portions of a phase II area that do not show a decline in nitrate-nitrogen content of groundwater to be subject to Phase III rules.  
3.1.3 Phase III Areas - If the average groundwater nitrate content of groundwater samples collected in the present northern Phase II Area (along and adjacent to the Platte River) by NRD personnel does not decline by at least one ppm during a period of four consecutive years prior to November 2005 (fifteen years from the effective date of the Phase II Groundwater Management Area), all townships in Phase II Areas that were designated on November 15, 1989 where average nitrate-nitrogen content of groundwater has not declined by at least one ppm over the last four consecutive years as compared to 1989 average nitrate levels will be declared Phase III Areas. Townships in other Phase II Areas will be declared Phase III Areas fifteen years after they are designated Phase II Areas, unless NRD water sampling indicates that the average groundwater nitrate content in those townships have declined by at least one ppm during the preceding four consecutive years as compared to 1989 average nitrate levels. Phase III management areas will be designated only after providing public notice, holding public hearings and receiving public comment.

#### Section 7- Groundwater Transfers

- Add rules to provide for a one year "commingled water" transfer permit.  
7.1 Transfers off of overlying land. Any person who desires to withdraw ground water from wells located within the district and to transfer the ground water withdrawn off of the overlying land for beneficial use elsewhere may do so after applying for and obtaining approval from Tri-Basin NRD. Withdrawal and use of such water shall be consistent with all applicable state statutes and rules and regulations of this district. Once granted, such permits will

remain in force until the owner of a well that is the subject of such a transfer notifies the NRD in writing that the permit should be cancelled, or until the NRD board of directors determine that such transfers are no longer in the best interest of the public, except as specified in rule 7.1.2.

7.1.2 In those instances where groundwater will be transported off overlying land using surface water delivery systems or natural streams or where surface water and groundwater will become commingled as a result of a groundwater transfer, said transfer permit will be valid for a period of one year from the date of issuance.

#### Section 8- Quantity Groundwater Management Area Rules and Regulations

- Revise well permit language in 8.3.1 to allow conditions to be placed on such permits.  
8.3.1 Landowners must obtain well construction permits from the Tri-Basin NRD before drilling new 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. Landowners shall agree not to exceed the intended pumping rate listed on the well permit unless they first get approval from the NRD Board of Directors. 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.
- Revise rule 8.2.2. to designate a phase II groundwater quantity management area when average groundwater levels in a township reach 100% of 1981-85 water levels (water levels have to drop to 90% of 1981-85 levels before phase II designation occurs).  
8.2.2 Phase II Areas - Phase II rules and regulations will be required to arrest groundwater declines in any section within the district where the Board of Directors determine that a three-year

rolling average of spring groundwater levels have declined more than ten percent (10%) of the thickness of the saturated zone when compared to the 1981-85 reference levels, and the average water table level is greater than forty feet below the land surface.

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 if 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 the 1981-85 reference levels, if the average water table level is greater than forty feet below the land surface.

- Revise rule 8.2.3. to reduce the time between designating phase II and phase III groundwater quantity management areas from five years to three years.

8.2.3 Phase III Areas -Phase III rules and regulations will be required in any section within the district where the Board of Directors determine that a three-year rolling average of spring groundwater level readings in an existing Phase II Quantity GMA have not returned to levels equal to or higher than the 1981-85 reference levels after Phase II controls have been in effect for three (3) years.

#### Section 10- Irrigated Land Certification

- Revise standard for irrigated land certification to be less time-specific.

10.1 All irrigated acres that are listed on the 2004-05 county property tax rolls, or that can be shown to have been farmed, grazed or hayed as irrigated land before the effective date of designation of an area as an Integrated Management Area Area or a Phase II Quantity Groundwater Management Area will be certified. The NRD Board of Directors may also certify irrigated acres developed within the district after the effective date of these rules, as described below.

10.2 Procedure to Certify Irrigated Acres. Any landowner who wishes to get NRD certification to use groundwater to irrigate land within an integrated

groundwater management area or a Phase II Quantity Groundwater Management Area must be able to demonstrate that a crop was irrigated on that land before the effective date of the Integrated GMA. Classification of land as irrigated by a county assessor prior to designation by the NRD Board of Directors of an area as an Integrated Management Area or a Phase II Quantity Groundwater Management Area shall suffice to demonstrate that a parcel of land is certifiable for groundwater irrigation for purposes of these rules.

- Limit time period for past allowable irrigation history
  - 10.2.2 If a parcel of land or portion thereof is not classified as land as irrigated by a county assessor prior to designation by the NRD Board of Directors of an area as an Integrated Management Area or a Phase II Quantity Groundwater Management Area, the NRD Board of Directors may accept aerial photos, USDA Farm Service Agency records, or other independently verified documents that indicate a parcel of land or portion thereof was irrigated during or after the 1997 crop year as information to justify revision of NRD irrigated acre certifications.
  - 10.2.3 Land within an integrated groundwater management area or a phase II quantity groundwater management area that is not certified by the NRD may not be irrigated, except to the extent that they replace on an acre-for-acre basis land previously certified as irrigated by the NRD.

Integrated Management Area Designation

- Revise stratigraphic designation to limit inclusion of Ogallala to areas where interconnection is demonstrated.

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