

Even though the NRD was requested not to allow expansion of acres after the settlement date of December 16, 2002 that required no increase in the consumptive use, with the rules they adopted, they allowed 30,000 additional acres, plus or minus, to be certified, that were not certified at the FSA as irrigated, after the prevented planting is deducted, or assessed at the county courthouse as irrigated in 1998, 1999, 2000, 2001, or 2002. In order to be fair, equitable, and non discriminatory to the irrigators and the surface water irrigators who's water source has been taken by ground water pumping, who didn't expand acres above the actual 2002 level of irrigated acres that were not certified or taxed as irrigated with very limited exceptions, in 1998, 1999, 2000, 2001, or 2002, those acres should be rolled back. The expanded acres allowance has cost every irrigator who didn't chose to expand close to 1 ½ inches of allotment per acre. Surface water irrigated acres that were watered after 1998 and before 2003 were not given an irrigation allotment the same as ground water pumpers. If given, it would give an equal right to surface water land owner for a "Right to use" allotment they could use or transfer for value. This would not increase the historic consumptive use.

The rules as written, will allow you to take away the acres that were not irrigated in four (4) of six (6) years when the board reviews the certification for all use.

Here is how;

3-1.23 History Of use: as used in these rules shall mean the exercise of a certified use in four (4) of six (6) years.

3-1.11 **Certified Use:** any use of ground water in accordance with Rule 4-6

4-6.3 The board shall review each certification for all use no less than five (5) years. Errors or inconsistencies discovered during that review shall be resolved to the satisfaction of the board before any new allotment is made to the previously certified 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 rule 4-6.5 or 4-6.14.

It appears that with rule (3-1.39 **Reduction of Acres:**) the board can even set allotments upon individual land owners.

3-1.39 **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.

It appears the land owner losses the allotments, but the operator has the control of the decisions on how much and where to use the water.

3-1.32 Operator: The person who controls the day to day operation of the water well.

It need to be included in the rules that the land owner is the one responsible for the over use of the allotment.

There are times we want to water after crops are harvested but before Nov 15th, the date your rule 4-5.1 state we have to report by. It would depend on the profile of the soil. Your rules have three different dates for the reading. One is September 30th, or the date you read the meter.

If your going to address ALLOCATION on an individual basis, according to rule 5-3.1, upland, quick response and supplemental irrigated separate and where it is an NRD board option to adjust each sub area allotment separate of the other, you need to also include addressing wells drilled after July 1, 1998 which can be treated different and also where all wells drilled after January 1st, 2001 that can be shut down or off

5-3.1 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; and (3) such other factors as the Board determines may be relevant to the appropriate amount of water to be withdrawn.

Rule 4-7 Water Short year administration.

4-7.3 Allotments shall be reduced in accordance with 5-3.8, 5-3.9, and 5-3.11.

RULE 5-3 ALLOCATION

5-3.8 UPLAND SUB AREA - For the period commencing October 1, 2004 and ending September 30, 2007,

5-3.9 QUICK RESPONSE SUB AREA - For the period commencing October 1, 2004 and ending September 30, 2007,

5-3.11 SUPPLEMENTAL WELLS – For the period commencing October 1, 2004 and ending September 30, 2007,

It appears that with (Rule 4-7 Water Short year administration) that you can set different allotments for UPLAND SUB AREA, QUICK RESPONSE SUB AREA, and SUPPLEMENTAL WELLS. The following shows you intent to treat sub areas different.

5-3.8.4 Base certification may be reduced to ninety (90) per cent of certified irrigated acres, as determined by the Board, in a Water Short Year.

5-3.11.3 In a Water Short Year, base certification is reduced according to the sub area in which the supplemental well is located.

5-5.2 No later than November 15 after the designation of the potential for a Water Short Year, the District will notify operators, by mail, in the appropriate sub areas of the potential requirement to reduce certified ground water irrigated acres by the amount identified in Rules 5-3.8.4 and 5-3.9.4

5-5.3 Operators in the Quick Response Sub Area will be required to report, on forms provided by the District, their certified uses, the acres that will be reduced and their proposed uses for the upcoming year.

Do we get an overall allotment where we can idle certain acres and put the extra water on other acres or are we confined to a set amount of water on a specific acre? I would like a explanation of the requirements of the states correlative right statute. Rule 5-5.3

3-1.43 **Supplemental Well:** A regulated well that provides supplemental ground water to acres that are normally irrigated by surface water. Annual use is not a requirement to be considered a supplemental well.

5-3.17 Supplemental wells shall be reported to the District before an allocation is granted.

5-3.11.2 Maximum allocation year use in Water Short Year: Thirteen (13) inches minus the amount of surface water delivered.

When you receive water from natural flow, especially in the Frenchman Valley system, you don't receive a very large quantity at one time, or have very many day to run it. As you get away from the main canal, you do not have a consistent flow. It will not work for watering a pivot and is only adaptable for flood irrigation. When you have an estimated amount of water of less than 3" or a time delivery time frame of less than 6 weeks is predicted in May, it should not be counted. Only the individual who uses the water should have it counted against their allotment.

Prevented planting acres are not addressed in allocation or allotments.

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