



Lower Republican Natural Resources District

April 23, 2004

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APR 26 2004

DEPARTMENT OF
NATURAL RESOURCES

Jim Cook
Agency Legal Counsel
NE Dept Natural Resources
PO Box 94876
Lincoln, NE 68509-4676

Re: LRNRD Rules and Regulations

Dear Jim Cook:

For your information, enclosed is a copy of our rules and regulations that were amended April 15, 2004.

Sincerely,

Chris Matson
Administrative Assistant

/cm

enclosure: LRNRD Rules and Regulations amended 4-15-04



Lower Republican
Natural Resources District

Rules and Regulations

Temporary Suspension of the
Drilling of New Water Wells
and
Water Use Measuring Devices
for Water Wells

adopted

December 2, 2002

amended

June 12, 2003 & April 15, 2004

Lower Republican Natural Resources District

Rules and Regulations

Section 1. Authority

These rules and regulations are adopted pursuant to the authority granted by the Nebraska Unicameral in the Nebraska Ground Water Management and Protection Act, Neb. Rev. Stat. § 46-656.01 - 46-656.67.

Section 2. Definitions

<u>Alluvial Well</u>	Shall mean a water well which is located in the district and in the alluvial aquifer of the Republican River Basin as determined and delineated on a map prepared by the Department of Natural Resources.
<u>Board</u>	Shall mean the duly constituted and elected Board of Directors of the Lower Republican Natural Resources District acting in its official capacity.
<u>Category 1 Well</u>	Shall mean a well with a pumping capacity of more than 250 gpm and used for withdrawal of water, on average, in at least one year out of three.
<u>Category 2 Well</u>	Shall mean a well with a pumping capacity of 250 gpm or less or a capacity active eligible well used for withdrawal of water, on average, in at least one year out of three.
<u>District</u>	Shall mean the Lower Republican Natural Resources District.
<u>Flow Meter</u>	Shall mean a device of a type or design approved by the Board, which when properly installed, operated, and maintained according to the district's specifications, measures and totalizes the quantity of groundwater pumped, withdrawn, or taken from a well.
<u>Groundwater</u>	Shall mean water that occurs or moves, seeps, filters, or percolates through the ground under the surface of the land.
<u>Groundwater User</u>	Shall mean any person (owner, agent, tenant, etc.) who, at any time after the effective date of these regulations, utilizes a water well to extract or withdraw groundwater for his or her own use or for other persons.

<u>Non-alluvial Well</u>	Shall mean a water well which is located in the district but not located within the alluvial aquifer of the Republican River Basin as determined and delineated on a map prepared by the Nebraska Department of Natural Resources.
<u>Water Well or Well</u>	Shall mean a water well as defined in Neb. Rev. Stat. § 46-601.01 that is used for other than domestic purposes and that is designed and constructed to pump more than fifty (50) gallons per minute. 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 one well. For purposes of these rules, the term “water well” or “well” does not include any water well classified as an “inactive status water well” in accordance with Neb. Rev. Stat., § 46-1207.02.
<u>Test hole</u>	Shall mean a hole designed solely for the purpose of obtaining information on hydrogeologic conditions.
<u>Dewatering Well</u>	Shall mean a water well constructed for the purpose of temporarily lowering the groundwater surface elevation.
<u>Replacement Well</u>	Shall mean a water well which (a) replaces a previously 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) if for irrigation, is constructed to provide water only to land historically irrigated by the well being replaced, and shall not be used to irrigate any additional acres. A replacement well as defined in § 46-602, or as further defined in district rules and regulations, is subject to the same provisions as the water well it replaces.
<u>Ground Water Use Report</u>	Shall mean a document, completed by the landowner or person with power of attorney, identifying and illustrating all lands that have received ground water for irrigation in 1999 or later years. The Ground Water Use Report shall be made using forms provided by the Lower Republican Natural Resources District. The Ground Water Use Report shall include an aerial photograph from the United States Farm Service Agency illustrating the lands that received ground water for irrigation, and such other information as deemed necessary by the District to evaluate historical and present ground water use.

Section 3.0. Meter Program Responsibilities

Each groundwater user subject to these rules will be responsible for: a) the purchase and installation of a flow meter or other measuring device as permitted by these rules; b) maintenance of the flow meter or other permitted measuring device; c) the repair or replacement of a disabled, inoperable or inaccurate flow meter or other permitted measuring device; and d) reading the flow meter or other permitted measuring device and reporting water use to the district as required by these rules.

The District will be responsible for: a) inspecting flow meter and other permitted measuring device installation; and b) spot checking flow meter readings and flow meters and other permitted measuring devices for accuracy.

Section 3.1. Meter Program Completion Schedule

For each Category 1 alluvial well and for each Category 2 alluvial well, except as otherwise required, a flow meter shall be installed and be operational by the date specified in the following schedule:

April 1, 1999	Wells located in government survey sections 1 through 12
April 1, 2000	Wells located in government survey sections 13 through 24
January 1, 2001	Wells located in government survey sections 25 through 36

All new alluvial wells constructed after January 1, 2001 shall have a flow meter installed and operational by January 1, 2004.

For each non-alluvial well constructed on or before the effective date of these rules, a flow meter shall be installed and be operational by the date specified in the following schedule:

January 1, 2004	– Wells located in government survey sections 1 through 12
April 1, 2004	– Wells located in government survey sections 13 through 24
April 1, 2005	– Wells located in government survey sections 25 through 36

For each water well constructed after December 9, 2002, a flow meter shall be installed and be operational by the applicable date specified in the schedule above. Water wells intended for use after the dates specified above must have a flow meter installed and operational prior to first use.

All alluvial water wells subject to an “Agreement to Use Alternative Metering Device for Active Irrigation Well Not Currently In Use,” shall remain subject to the terms and conditions of such agreements.

Section 3.2. Meter Specifications, Sealing, Installation and Removal

All flow 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, a newly installed flow meter shall register within plus or minus 2% of the actual water flow. All flow meters shall have a register reading in gallons per minute and a totalizer with sufficient capability to record at least the quantity of water pumped during one whole year. The totalizing dial face shall clearly indicate the units measured.

Within 30 days of installation of the flow meter, the operator shall report the water well and flow meter location by legal description and by well registration number, if known. The District may, at any time, verify the location and proper installation of flow meters.

All existing and new flow water meters must be readable and have the capacity to be sealed. The district staff may seal any and all flow meters on wells subject to those rules. No seal shall be removed without district approval.

The flow meter shall be installed in accordance with the manufacturer's instructions and in such a manner to assure full pipe flow at all times while groundwater is being pumped. Full pipe flow may be obtained by using butterfly valves or by raising the pipe after the meter to a point above the level of the flow meter.

The flow meter shall be placed in the line with at least 5 pipe diameters of straight pipe without valves, elbows, or other obstructions upstream and at least 1 pipe diameter of straight pipe without valves, elbows or other obstructions downstream. Where manufacturer's or dealer's instructions are more stringent they shall govern. If these conditions cannot be obtained, straightening vanes shall be installed in the pipe ahead of the flow meter according to the manufacturer's instructions.

Flow meters must be kept clear of debris, vegetative growth or other material which would impede operation. Where flow meters are removed for servicing or replacement, records of meter reading shall be kept. Flow meters should be stored in such a manner to prevent damage by freezing and rodents.

It shall be unlawful under these rules for any person to willfully injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere with or tamper with any flow meter on a well subject to these rules for the purpose of or with the intent to produce an incorrect, inaccurate or misleading measurement, without district consent, or to cause, procure, or direct any other person to do so.

Section 3.3. Operational Accuracy

To be considered acceptable for purposes of these rules, and in addition to meter and installation specifications elsewhere in these rules, each flow meter or other permitted measuring device must continue to measure water flow within a range of plus or minus 5% of the actual water flow from the well. If the groundwater user or the district determines that such accuracy is no longer within the acceptable range, the water flow meter or other permitted measuring device shall be repaired or replaced or other necessary adjustments shall be made in the system to assure that accurate water use information can be obtained. Unless an extension is granted by the Board for good cause shown, such replacement, repair, or adjustment shall be made within 30 days of

such determination by the groundwater user or the district. In the interim, any groundwater use shall be measured by a method approved by the board.

Section 3.4. District Flow Meter Inspection/Flow Rate Evaluations

The district may at any time conduct an inspection of the flow meter and installation or perform a flow rate evaluation using the district's calibrated flow meter, ultrasonic flow meter, or other flow measuring device approved for use by the board. Such inspections and evaluations shall be randomly conducted by the district. The district's goal shall be to annually check 25% of the flow meters and other permitted measuring devices subject to these rules. The groundwater user shall be notified in advance of the district's intention to conduct such inspection or evaluation and such user may be present if he or she so desires at such inspection or evaluation. The results of any such inspection or evaluation shall be provided to the groundwater user within 10 days if he or she is not present when the inspection or evaluation is conducted.

If the district determines after a flow meter and installation inspection that the flow meter or its installation do not meet the specifications in these rules, the groundwater user shall take the necessary corrective steps within 30 days. In the interim, any groundwater use shall be measured by a method approved by the board.

If a flow rate evaluation by the district indicates that the flow meter or other permitted measuring device is no longer accurate within a range of plus or minus 5% of the actual water flow, the groundwater user may arrange for an independent evaluation to be conducted with a calibrated flow meter, ultrasonic flow meter, or other measuring device acceptable to the board. Such independent evaluation must be made within the time permitted by Section 6 of these rules for repair or replacement of inaccurate meters or other permitted measuring devices. If such independent evaluation is conducted in accordance with standards established by the board, and if it indicates that the flow meter or other permitted measuring device is measuring water flow within the acceptable range, the board will accept such independent evaluation and authorize the continued use of the water flow meter or other permitted measuring device without repair, adjustment, or replacement.

Section 3.5. Notice of Replacement

The groundwater user of a water well which is required to be metered will notify the District within 10 days of the installation a replacement meter.

Section 3.6. Accessibility

All meters must be accessible for inspection and may be inspected at any reasonable time by a District representative.

Section 3.7. Annual Meter Reporting

Each groundwater user shall report the water withdrawn each year from each well subject to these rules. For wells with flow meters, such reports shall provide the meter reading at the beginning of the calendar year or the date when the flow meter was installed, whichever date is later, and the flow meter reading at the end of the calendar year. If a flow meter was changed, reset or otherwise altered during the year, the report shall include sufficient information for the district to determine the water used for that year. All such reports shall be on forms provided by the district. Unless (1) earlier reporting is required because of the use of cost share assistance or (2) the well is constructed after the applicable date in the schedule in Section 3.1 of these rules, all such reports shall be filed by the date specified below and by November 1 of each year thereafter.

For Alluvial Wells Except Category 2 Alluvial Wells For Which An Alternative Water Use-Measuring Device Was Approved by the Board Under Previous NRD Rules:

January 15, 2000	Wells located in government survey sections 1 through 12
January 15, 2001	Wells located in government survey sections 13 through 24
January 15, 2002	Wells located in government survey sections 25 through 36

For Non-Alluvial Wells and for Category 2 Alluvial Wells For Which An Alternative Water Use-Measuring Device Was Approved by the Board Under Previous NRD Rules:

January 15, 2004	Wells located in government survey sections 1 through 12
November 1, 2004	Wells located in government survey sections 13 through 24
November 1, 2005	Wells located in government survey sections 25 through 36

For a well constructed after the applicable date in the schedule in Section 3.1 of these rules, the water use report is due by November 1 of the same year following the first use of the well and by November 1 of each year thereafter.

A groundwater user who fails to report water use as required by this section or who falsely reports such information shall be subject to enforcement actions authorized by statute and by these rules and regulations.

Section 4. Variances For Well Meters

The Board may grant variances from the strict application of these rules upon (1) a showing of good and sufficient cause; (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (3) a determination that the granting of the variance will not result in a conflict with other applicable laws, rules, or regulations.

Section 5. Temporary Suspension of Drilling New Wells

In July of 1996, the Board requested the Nebraska Department of Water Resources to conduct studies and hold a hearing on the preparation of a joint action plan for the integrated

management of hydrologically connected groundwater and surface water. In June of 1999, the Board requested the Nebraska Department of Water Resources to suspend the studies and process begun in 1996. In October of 2002, the Board requested the Nebraska Department of Natural Resources (the successor agency to the Nebraska Department of Water Resources) to resume the studies and process begun in 1996.

Effective December 9, 2002, there is a temporary suspension of the drilling of new wells within the entire Lower Republican NRD, except for those areas lying east of a line proceeding north from the Nebraska-Kansas state line and following the western edge of Webster County, Township 1, Range 9, Sections 34, 27, 22, 15, 10, 3, through Webster County, Township 2, Range 9, Sections 34, 27, 22; then proceeding west along the southern edge of Webster County, Township 2, Range 9, Sections 16, 17, 18; then proceeding north following the western edge of Webster County, Township 2, Range 9, Sections 18, 7, 6, through Webster County, Township 3, Range 9, Sections 31, 30, 19, 18, 7, 6 to its intersection with the northern boundary of Webster County.

Wells not subject to the temporary suspension of drilling shall include (1) test holes; (2) Dewatering wells with an intended use of less than ninety days; (3) Water wells designed and constructed to pump fifty gpm or less; and (4) Water wells to be used as replacement wells. The temporary suspension of drilling shall remain in effect until November 30, 2005 unless rescinded.

Section 6. Variances for Drilling New Wells

The Board may grant variances from the strict application of these rules and regulations if it determines that construction of a new well is necessary to alleviate an emergency situation involving the provision of water for human consumption or upon other good cause shown. All requests for variances shall be made on forms provided by the district and will be acted upon after a public hearing before the Board.

Section 7. Ground Water Use Reports

All persons who wish to use ground water for irrigation in the future, must file a Ground Water Use Report identifying the lands which have received ground water for irrigation during or after 1999. The report shall be completed on forms provided by the District and shall utilize aerial photos provided by the United States Farm Service Agency. The forms provided by the District shall require the identification of all wells used to irrigate lands within the District. Identification of such wells shall be by well registration number, as provided by the State of Nebraska, and by illustrating the location on the aerial photo provided by the United States Farm Service Agency. The landowner shall be responsible for obtaining the aerial photo from the Farm Service Agency and shall designate the area irrigated solely with ground water. The landowner shall also identify fields that are receiving co-mingled ground water and surface water. The method of designation shall be specified by the District. Completed forms and aerial photos shall be returned to a district office for final verification. Final verification shall include an attestation as to the accuracy of the report, and either (A) a copy of a county tax assessment

statement showing the land as irrigated; or (B) a copy of a report from the Farm Services Agency showing the property as being irrigated.

If the owner of land is unable to appear before the District in order to present the report and sign the attestation, he/she may have a person with power of attorney appear in their stead. A copy of the power of attorney shall be provided with the report to the District.

All acres having been irrigated during or after 1999 but prior to January 1, 2004 must be reported to the District on or before October 1, 2004. Any acres receiving ground water for irrigation after January 1, 2004 must be reported to the District by January 1, 2005.

Section 8. Enforcement of Rules

These rules and regulations may be enforced through issuance of cease and desist orders by the Board. Violations of a cease and desist orders issued by a district are also classified as Class IV misdemeanors by § 46-656.10.

Section 9. Permit to Construct a Well

Any person, company or legal entity wishing to drill or construct a new or replacement irrigation well, industrial well or municipal well within the borders of the LRNRD, shall receive a permit for such well from the LRNRD before beginning construction or drilling. Applications for a permit to drill or construct a new or replacement well shall be made on forms provided by the LRNRD.

Section 10. Effective Date

These rules and regulations shall be effective along with all other previously adopted rules not herein repealed, on April 15, 2004 and shall remain in full force and effect until repealed, amended or superceded.